

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR 1986**

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**HEARINGS**  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES  
NINETY-NINTH CONGRESS  
FIRST SESSION

**SUBCOMMITTEE ON THE DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED AGENCIES**

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**PART 7**

**DEPARTMENT OF JUSTICE**

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**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY AND RELATED AGEN-  
CIES APPROPRIATIONS FOR 1986**

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**TUESDAY, MARCH 19, 1985.**

**DEPARTMENT OF JUSTICE**

**UNITED STATES PAROLE COMMISSION**

**WITNESSES**

**BENJAMIN F. BAER, CHAIRMAN**

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**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

**Mr. EARLY.** Today we consider the fiscal year 1986 budget for the United States Parole Commission. The request is for \$9,415,000. This represents an increase of \$502,000 above the appropriation enacted to date for the fiscal year.

We will insert at this point in the record a set of justifications in support of the fiscal year 1986 budget request.

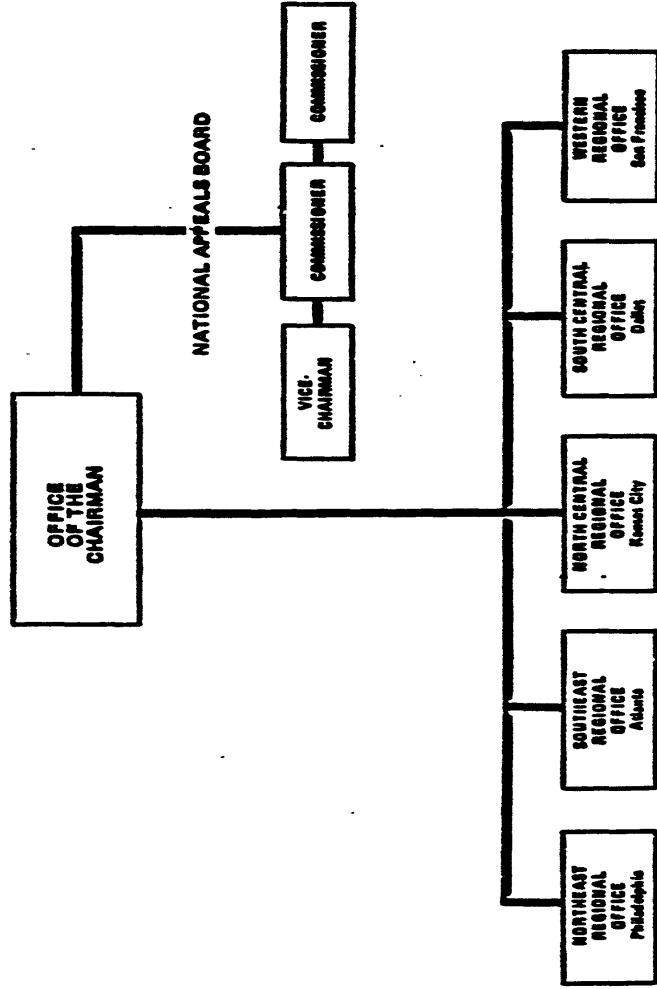
[The justifications follow:]

(1)

Department of Justice  
U.S. Parole Commission  
Estimates for Fiscal Year 1986  
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U.S. PAROLE COMMISSION



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Approved: B. J. D. Date: 1-5-84  
Barnett P. Bear  
Chairman

## U.S. Parole Commission

### Summary Statement

#### Fiscal Year 1986

The United States Parole Commission is requesting, for 1986, a total of \$9,415,000, 169 permanent positions and 170 workyears. This increase represents an increase of \$342,000 over the 1985 appropriation anticipated of \$9,073,000.

The United States Board of Parole was created by Congress in 1930. In 1976, the Parole Commission and Reorganization Act (Public Law 94-233, effective 5/14/76) retitled the agency as the United States Parole Commission. Placed within the Department of Justice for administrative purposes, the Commission is an agency with independent decision-making powers set forth by statute. The Commission has parole jurisdiction over all eligible Federal prisoners, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole (mandatory release).

The Parole Commission and Reorganization Act provides for nine Commissioners, appointed by the President with the advice and consent of the Senate. One Commissioner is designated as Chairman. Each of the five Regional Offices of the Commission is under the supervision of a Commissioner, and three Commissioners comprise a National Appeals Board in Chevy Chase, Maryland. Hearing examiners working out of the regional offices interview prisoners eligible for parole and make recommendations to the Commissioners. These hearings are conducted by examiner panels at all Federal prisons on a bi-monthly schedule. Examiners also conduct revocation hearings at state and local facilities, as required. Summaries of the hearings are recorded and then transcribed and sent to the regional office for the initial review and decision of a Commissioner.

On a cooperative basis, the Commission uses the services of staff employed by the Federal Prison System, who are assigned to the correctional institutions throughout the nation. The staff prepares classification summaries, progress reports, and other reports concerning parole applicants.

Field supervision of released prisoners is provided by U.S. Probation Officers, who are employed by the U.S. Probation Service in the Administrative Office of the U.S. Courts. According to statute, they function as "parole officers" for Federal prisoners. Reports concerning the adjustment of parolees and mandatory releasees are prepared by these officers and submitted to the Commission.

An appeal system is in effect to permit review of parole decisions. Decisions on appeal must be completed within 60 days at the National Appeals Board.

National parole policy is reviewed by formal Commission deliberation at least quarterly. This continual study and review is designed to monitor and refine parole practices throughout the Federal system.

A small but active research program is ongoing. Research projects include:

1. Development of methods for increasing hearing panel reliability in guideline assessments.
2. Refinement of the offense severity and salient factor score scales used by the Commission.
3. Further assessment of the effects of the expanded presumptive parole date procedures.
4. Development of a parole Decision Recording and Monitoring System for automated data processing of offender information and office automation.
5. Implementation of a system to enable hearing examiners to make more effective pre-hearing reviews of inmate files.

The General Counsel's office advises the Commissioners and staff on interpretation of the agency's enabling statutes and policy, drafts implementing rules and regulations, and assists U.S. Attorneys offices in defending the Commission against lawsuits brought by prisoners and parolees. The office is also a resource for staff on problems involving the processing of requests for information under the Privacy Act of 1974, as amended in 1975. The Counsel's office responds directly to requests submitted under the Freedom of Information Act. Finally, the General Counsel staff has responsibility for analyzing applications for exemption from prohibitions imposed by Federal law against persons who have been convicted of certain crimes from occupying labor union, management, or pension fund positions, and ensuring that the hearings under the Administrative Procedures Act are properly conducted.

The Commission's legal staff also participates with the State Department and other units of the Department of Justice on various phases of the development of treaties and implementing legislation for the exchange of prisoners with other countries.

The Commission's Case Operations Section gives functional supervision to regional hearing examiners and analysts. It provides quality control of case decisions, coordinates the training program, and develops procedures to implement Commission policy including a comprehensive manual. In addition to these functions, this section has assumed the responsibility of coordinating the Witness Security Program.

The Comprehensive Crime Control Act of 1984 establishes a Sentencing Commission and abolishes parole. The Parole Commission anticipates a gradual reduction in workload beginning three years after the legislation was enacted assuming that the Sentencing Commission guidelines are approved and initiated in November 1986, and abolishment seven years following enactment of the legislation.

U.S. Parole Commission  
Proposed Authorization Language

The U.S. Parole Commission is requesting the following authorization language:

Annual Authorization Proposal

For the United States Parole Commission: \$9,415,000.

Permanent Authorization Proposal

Section 4204(b) of Title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) hire of passenger motor vehicles."

U.S. Parole Commission

Salaries and expenses

Justification of Proposed Changes in Appropriation Language

The 1986 budget estimates include proposed changes in appropriation language listed and explained below. New language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses

For necessary expenses of the United States Parole Commission, as authorized by law, [88,913,000] \$9,415,000

(18 U.S.C. 4202-04, 4212, 4255, 5005, 5041; Department of Justice and Related Agencies Appropriation Act, 1985 additional authorizing legislation to be proposed).

Explanation of changes:

No substantive changes proposed.



U.S. Parole Commission

Salaries and expenses

Crosswalk of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request		Congressional Appropriations Actions on 1985 Request		Reprogramming Request		1985 Pay Supplemental Requested		1985 Appropriation Anticipated	
	Fos.	FTE Amount	Fos.	FTE Amount	Fos.	FTE Amount	Fos.	FTE Amount	Fos.	FTE Amount
1. Parole.....	157	158 \$8,778	12	12 \$135	...	...	...	...	169	170 \$9,073

Congressional Appropriations Actions

Congressional action reduced the Commission's SLUC increase by \$259,000, and took a Departmental across-the-board one-percent reduction of \$73,000. Congressional action added 12 positions, 12 workyears and \$167,000, which will enable the Commission to handle the increased workload associated with the prison population. Supplemental funding of \$160,000 is requested to cover the 3 1/2 percent payraise approved.

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U.S. Parole Commission

Salaries and expenses

Summary of Requirements  
(Dollars in thousands)

Adjustments-to-base:

	Perm. Work- Pos.	Years.	Amt.
1985 as enacted.....	169	170	\$8,913
1985 Pay supplemental requested.....			160
1985 appropriation anticipated.....	169	170	9,073
Uncontrollable increases.....	...	...	544
Decreases.....			-202
1986 base.....	169	170	9,415

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	1984 Enacted		1984 Actual		1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	NY	Perm.	NY	Perm.	NY	Perm.	NY	Perm.	NY	Perm.	NY
	Pos.	Amt.	Pos.	Amt.	Pos.	Amt.	Pos.	Amt.	Pos.	Amt.	Pos.	Amt.
Estimates by budget activity												
Parole.....	157	158 \$7,858	157	155 \$7,730	169	170 \$9,073	169	170 \$9,415	169	170 \$9,415	...	...

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U.S. Parole Commission

Salaries and expenses

Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity:	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	NY Amount	Pos.	NY Amount	Pos.	NY Amount	Pos.	NY Amount
Parole.....	169	170 \$9,073	169	170 \$9,415	169	170 \$9,415	...	...

Long-Range Goal. To make decisions relative to grants and denials of parole, conditions of parole, supervision of parolees and mandatory releases, recomittal in event of violation of conditions of supervision, and termination of supervision as outlined in the Parole Commission and Reorganization Act of 1976.

Major Objectives.

- o To establish, with the aid of statistical data, a national paroling policy and promote the consistent exercise of discretion in the paroling process, including the development and application of specific guidelines for decisionmaking so that the duration of terms of imprisonment throughout the Federal system will be equitable for those prisoners over whom the Commission has jurisdiction.
- o To make fair decisions regarding the grant or denial of parole which are fair to the prisoners and which adequately protect the public welfare, within specific time requirements for decisions established by law.
- o To provide forceful supervision for released parolees and mandatory releases to enhance community protection and the rehabilitation of such released offenders.
- o To promptly modify or revoke the parole or mandatory release of any individual who violates the conditions of release.

#### Base Program Description.

At present, the Parole Commission operates out of five regional offices and a headquarters office in Chevy Chase, Maryland. Hearing examiners working out of the regional offices interview prisoners eligible for parole and make recommendations to the Commissioners. These hearings are conducted by examiner panels at all Federal prisons on a regular schedule, and at state prisons and local communities, as required. Summaries of these hearings are recorded, transcribed and sent to the regional office for the initial review and decision of a Commissioner.

An appeal system is in effect to permit review of parole decisions. Decisions on appeal at the National Appeals Board must be completed within 60 days.

Other professional level personnel in the area offices coordinate the work with the Federal Prison System institutions and the probation officers attached to each United States District Court.

An ongoing research program is conducted in areas related to parole and information and guidance is provided to state parole boards, original justice agencies, and others interested in improving the criminal justice process.

#### Accomplishments and Workload

11

1. A total of 20,773 individual decisions regarding the grant, denial, or revocation of parole, as required by statute, were made during 1984.
2. A total of 8,038 appeal considerations (regional and national) were made during 1984 as required by statute.
3. Supervision was provided to 24,139 parolees, special parolees and mandatory releasees from July 1, 1983 to June 30, 1984.
4. Development of methods for increasing hearing panel reliability in guideline assessments.
5. Refinement of the offense severity and salient factor score scales used by the Commission.
6. Designing a parole Decision Recording and Monitoring System which is intended to automate many manual, paper oriented processes and to provide current parole statistics of codefendants.
7. Implementation of a system to enable hearing examiners to make more effective pre-hearing reviews of inmate files.

The workload of the Parole Commission is presented in the following table.

	Actuals			Estimates	
	1983	1984	1985	1985	1986
1. Hearings:					
a. Initial.....	10,630	9,953	9,953	9,953	9,953
b. Record Review.....	18,258	17,469	17,469	17,469	17,469
c. Rescission.....	719	837	837	837	837
d. Local Revocation.....	331	352	352	352	352
e. Institutional Revocation.....	2,500	2,256	2,256	2,256	2,256
f. Other.....	443	330	330	330	330
g. Statutory Review.....	2,042	2,137	2,137	2,137	2,137
Total.....	34,923	33,334	33,334	33,334	33,334

2. Appeal Decisions:					
a. Regional.....	4,310	4,407	4,400	4,400	4,400
b. National.....	2,732	3,165	4,400	4,400	4,400
c. Administrative reviews.....	230	245	245	245	245
d. CJ decisions and appeals.....	226	221	221	221	221
Total.....	7,498	8,038	5,266	5,266	4,866

\*Includes Pre-hearing Reviews for Initial and Revocation Hearings and Pre-release Reviews.

\*\*Includes Dispositional Revocation Hearings.

U.S. Parole Commission

Salaries and expenses

Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985 Authorized	1986 Total
Attorneys (905).....	7	7	7
Paralegal Specialists (950).....	3	3	3
Social Scientists, Economist and Kindred (101-199).....	70	75	75
General Administration Clerical and Office Services (300-399).....	75	82	82
Accounting and Budget (500-599).....	2	2	2
Total.....	157	169	169
Washington.....	39	42	42
U.S. Field.....	118	127	127
Total.....	157	169	169

U.S. Perole Commission  
Salaries and expenses  
Summary of Adjustments to Base  
(Dollars in thousands)

	Perm. Pos. 169	Work- Years 170	Amount 170 \$8,913
1985 as enacted.....	...	...	160
Supplementals requested:			
Pay increase supplemental requested:			Amount
Increased pay costs.....			194
Absorption.....			-34
Net pay supplemental.....			160
1985 appropriation anticipated.....	169	170	9,073
Adjustments to base:			
Savings resulting from management initiatives.....	...	...	-194
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....	...	...	18
Annualization of 1985 pay increase.....	...	...	94
Annualization of decision recording and monitoring system.....	...	...	189
Within-grade increases.....	...	...	57
Health benefits costs.....	...	...	17
GSA recurring reimbursable services.....	...	...	3
Federal Telecommunications System (FTS).....	...	...	12
General pricing level adjustment.....	...	...	158
Total uncontrollable increases.....	...	...	544
Decreases (automatic non-policy):			
Rate decrease for full-field investigations.....	...	...	-8
Total decreases.....	...	...	-8
1986 Base.....	169	170	9,415

U.S. Parole Commission

Salaries and expenses

Justification of Adjustments to Base  
(Dollars in thousands)

<u>Savings resulting from management initiatives</u>	<u>Perm. Pos.</u>	<u>Work Years</u>	<u>Amount</u>
Uncontrollable Increases:			
1. Restoration of reduction for change in hourly rate.....	...	...	-194
Section 310 (b)(1) of the Omnibus Reconciliation Act of 1982 required that for 1984 and 1985 pay be computed on the basis of 2,087 workhours. These funds were withdrawn from the 1984 budget. For 1986 the basis for computing pay reverts to 2,080 workhours and restoration of the \$16,000 reduced in 1984 is required to fund the change in the hourly rate.			
2. Annualization of 1985 pay increase.....	...	...	94
This provides for the annualization of the January 6, 1985 pay increase contained in Executive Order 12496 dated December 28, 1984. There are 261 compensable days in 1985 and 70 paid days (October 1, 1984 through January 5, 1985) that were not included in the pay raise amount of \$160,000. Additionally, \$34,000 of the request was absorbed. The calculation of the amount required for annualization is: 70/261 x 224..... \$60 1985 absorption of pay..... 34 Total annualization..... 94			
3. Annualization of decision recording and monitoring system.....	...	...	189
This request provides additional funding for the yearly costs of maintaining the DataPoint mini-computer based, combined office automation/data distribution system which was installed during 1985.			
4. Within-grade increases.....	...	...	57
This request provides for the increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$52,000 and benefits \$5,000 = \$57,000).			



	Perm. Pos.	Work Years	Amount
5. Health benefits costs.....	...	...	\$17
The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective the first pay period after January 1, 1984, actual contributions to health insurance increased approximately 14 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$17,000 provides funds for increased costs from pay period two (\$4,691,000) to pay period three (\$5,359,000) projected for 26 pay periods.			
6. GSA recurring reimbursable services.....	...	...	3
Reimbursable payments are made to the GSA for heating, ventilation and air conditioning provided in excess of normal working hours and for guard service. GSA has estimated a 5 percent increase over 1985 charges.			
7. Federal Telecommunications System (FTS).....	...	...	12
The FTS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1986, the uncontrollable increase will be \$12,000 over the 1985 base of \$101,000.			
8. General pricing level adjustment.....	...	...	154
This request applies OMB pricing guidance as of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1986 estimates.			
Total uncontrollable increases.....	...	...	544
<u>Decreases (automatic non-policy):</u>			
1. Rate decreases for full-field investigations.....	...	...	\$-8
Total decreases.....	...	...	-8
Total, adjustments to base.....	...	...	342

**U.S. Parole Commission**  
**Salaries and expenses**  
**Summary of Requirements by Grade and Object Class**  
**(Dollars in thousands)**

Grades and salary ranges	1985 Estimate		1986 Estimate		Increase/Decrease	
	Positions & Workyears	Amount	Positions & Workyears	Amount	Positions & Workyears	Amount
GS-18, \$68,700.....	9	...	9	...	...	...
GS/GM-15, \$52,262-67,940.....	4	...	4	...	...	...
GS/GM-14, \$44,430-57,759.....	46	...	46	...	...	...
GS/GM-13, \$37,599-48,876.....	2	...	2	...	...	...
GS-12, \$31,619-41,105.....	11	...	11	...	...	...
GS-11, \$26,381-34,292.....	5	...	5	...	...	...
GS-10, \$24,011-31,211.....	1	...	1	...	...	...
GS-9, \$21,804-28,347.....	12	...	12	...	...	...
GS-7, \$17,824-23,170.....	17	...	17	...	...	...
GS-6, \$16,040-20,855.....	23	...	23	...	...	...
GS-5, \$14,390-18,710.....	19	...	19	...	...	...
GS-4, \$12,862-16,723.....	18	...	18	...	...	...
GS-3, \$11,458-14,696.....	1	...	1	...	...	...
GS-5, \$16,696-19,534.....	1	...	1	...	...	...
Total, appropriated positions.....	169	\$5,613	169	\$5,532	...	\$-81
Pay above stated annual rates.....	...	21	...	23	...	2
Lapses.....	-3	-99	-3	-98	...	1
Net savings due to lower pay scales for part of the year.....	...	-55	...	...	...	55
Net permanent.....	166	5,180	166	5,157	...	-23
Average GS/GM salary.....	...	\$32,888	...	\$32,497	...	...
Average GS/GM grade.....	...	9.67	...	9.67	...	...

U.S. Parole Commission

Salaries and expenses

Summary of Requirements by Object Class  
(Dollars in thousands)

Object Class	1985 Estimate Positions & Workyears	Amount	1986 Request Positions & Workyears	Amount	Increase/Decrease Positions & Workyears	Amount
11 Personnel compensation:	166.	\$5,480	166	\$5,457	...	\$-23
11.1 Full-time permanent:						
11.3 Other than permanent:						
Part-time permanent:	3	49	3	51	...	2
Temporary employment:	1	10	1	10	...	...
11.5 Other personnel compensation:						
Overtime:	...	6	...	6	...	...
Total:	170	5,535	170	5,524	...	-21
Other objects:						
12 Personnel benefits:	...	667	...	680	...	13
13 Benefits to former personnel:	...	4	...	4	...	...
21 Travel and transportation of persons:	...	670	...	755	...	85
22 Transportation of things:	...	36	...	68	...	32
23.1 Standard level user charges:	...	918	...	918	...	...
23.2 Communications, utilities and other rent:	...	600	...	660	...	60
24 Printing and reproduction:	...	84	...	84	...	...
25 Other services:	...	397	...	513	...	116
26 Supplies and materials:	...	85	...	116	...	31
31 Equipment:	...	67	...	93	...	26
Total obligations:	170	\$9,073	170	9,415	...	342
Relation of obligations to outlays:						
Obligated balance, start-of-year:	...	1,024	...	1,077	...	...
Obligated balance, end-of-year:	...	-1,077	...	-1,227	...	...
Outlays:	...	9,020	...	9,235	...	...

1986 Object Class schedule has been revised from the printed galley.

Mr. EARLY. The Committee will come to order.  
This morning we are pleased to have Mr. Baer from the United States Parole Commission.

Mr. Baer, we will be pleased to have your statement.

#### GENERAL STATEMENT

Mr. BAER. Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today in support of the 1986 budget request of the United States Parole Commission.

The commission has parole jurisdiction over all eligible federal prisoners, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole (mandatory release).

The 1986 budget request is for \$9,415,000 and 169 permanent positions. This represents an increase of \$342,000 over the 1985 appropriation anticipated, but no increase in positions. Net uncontrollable increases account for this amount.

The commission's workload for 1986 is expected to remain at the 1984-1985 level.

The Comprehensive Crime Control Act of 1984, passed at the close of the 98th Congress, establishes a Sentencing Commission in the judicial branch of the United States Government. The purpose of the sentencing guidelines is to reduce unwarranted sentencing disparity. This guideline concept is based in large part on the Parole Commission guideline system developed initially in 1973 and codified by Congress in 1976.

The Sentencing Commission guidelines are scheduled to go into effect November 1, 1986. The Sentencing Commission has not yet been appointed and the proposed guidelines that the Sentencing Commission will develop must be submitted to Congress six months before they become effective. All crimes committed prior to the date that the sentencing guidelines become effective will have to be processed by the United States Parole Commission under current procedures. Five years after the sentencing guidelines become effective, the Parole Commission will be phased-out.

It would appear at this time, Mr. Chairman, that the Parole Commission's workload will not diminish until fiscal year 1988.

This concludes my statement, Mr. Chairman. I will be pleased to answer any questions you may have.

[The biographical sketch of Mr. Baer follows:]

## BENJAMIN F. BAER

Benjamin F. Baer was appointed from California by President Reagan as a member of the United States Parole Commission on January 8, 1982 and was appointed Chairman on March 24, 1982. Prior to that appointment, he served as Parole Commission Hearing Examiner for 10 years. In 1974, the United States Parole Commission regionalized its operation and he was appointed Administrative Hearing Examiner for the Western Region where he assisted the Regional Commissioner in setting up and organizing the Western Regional Office.

Mr. Baer was born on January 2, 1918 in Peoria, Illinois. He majored in General Business at the University of Illinois for two years and later attended the San Diego State College where he received a B.A. Degree with honors in Social Science in June 1941. He attended the University of Southern California and received a Master's Degree in 1947 in Social Work. From 1964 to 1965, Mr. Baer attended the University of Southern California Doctoral Program and completed course work in Social Work and Public Administration.

He served as Chairman of the Youth Conservation Commission, Department of Corrections, St. Paul, Minnesota, from 1967 to 1972, which is a parole agency for juveniles and youthful offenders. He also was the Deputy Commissioner for the Minnesota Department of Corrections in charge of the juvenile institutions for the state, group homes for juveniles, and after-care services.

As a result of a grant from the National Institute of Mental Health, Mr. Baer served as Co-Director for the Correctional Decisions Information Project in Sacramento, California, from 1965 to 1967.

From 1960 to 1964, he served as Director of Corrections for the State of Iowa overseeing and state prisons, reformatories and juvenile institutions.

He was employed by the California Department of Corrections from 1947 to 1960, serving as a clinician in the Reception Center, the Department's Supervision of Classification, and from 1954 to 1960 Associate Warden for San Quentin Prison.

Mr. Baer is married to the former Frances Eisman and has three children. His professional organizations and memberships include the American Correctional Association; National Council on Crime and Delinquency; National Association of Social Work; National Association of State Juvenile Delinquency Program Administrators; California Probation; Parole and Correction Association; and other various state correctional organizations.

## 1985 PAY REQUEST

Mr. EARLY. Mr. Chairman, you are requesting a \$160,000 fiscal year 1985 pay increase for federal civilian employees on January 1985. Does this amount represent 100 percent of the increased pay costs?

Mr. BAER. Not quite, \$34,000 will have to be absorbed.

Mr. EARLY. What impact will absorbing this \$34,000 have on your program?

Mr. BAER. We believe that we can absorb that. What will happen is if there are vacancies—a certain number normally occur—we will defer the replacement for a period of time.

Mr. EARLY. I have difficulty, Mr. Baer, when you suggest that you can absorb that. We continually read about the increased prison load. We need more prisons and we are going to have more prisoners. Your statement also suggests that the Crime Prevention Act of 1984 isn't going to be timely on implementation. Can you state that you can absorb that without affecting the Commission's efficiency?

Mr. BAER. We think that we can. This is the policy of the government. We have the larger part that we anticipate we will get.

Mr. EARLY. Mr. Baer, your agency appears to be the only one in the Justice Department that is not proposing a fiscal year 1985 rescission in connection with Section 2901 of the Deficit Reduction

Act of 1984. I assume your exemption from this requirement is because of your increased workload. Is that correct?

Mr. BAER. Ms. Clark, can you answer that, please?

Ms. CLARK. OMB did not cut us by that amount.

Mr. EARLY. Why? I would assume it is because of the massive workload that you have. Is that correct, in your opinion?

Ms. CLARK. I assume that is why they didn't cut it.

#### COMPREHENSIVE CRIME CONTROL ACT

Mr. EARLY. The Comprehensive Crime Control Act contains provisions which would phase out the Commission in a few years. Could you describe briefly what the highlights of these provisions are and what agency would carry out your function upon termination of the Commission?

In your statement you have only one line regarding the change in sentencing guidelines due to the passage of the Crime Control Act. How will other parts of this legislation effect the Commission, Mr. Chairman?

Mr. BAER. There are some parts of the bill that need to be clarified. There are certain ex post facto laws that have to be considered. For example, the current law provides for interim hearings, that is after the initial hearing, at which time there is a presumptive parole date. On a sentence of seven years or more, current law entitles the prisoners to an interim hearing two years later.

How those will be conducted is still not worked out. The matter of supervising the people that are on parole plus supervising those that will be given a period of supervision after the determinate sentence under the new law is a matter that is of some concern and is being considered.

Someone is going to have to make a decision on who will carry out the full Commission's function after 1991 in reference to the prisoners who are transferred from foreign countries under the treaties that the United States has with Mexico, Canada and a couple of other countries. Whether it will be the Sentencing Commission or some other agency is not exactly clear.

Mr. EARLY. Mr. Chairman, will this budget allow you to conduct and monitor these activities the way the law was intended? Or will you be forced to change your hearing procedures, or shorten the hearings, or exempt witnesses, just to be able to conform and keep up with that schedule?

Mr. BAER. Mr. Chairman, the budget that has been submitted should enable us to carry out our functions the way we are doing it now during fiscal year 1986.

#### ADDITIONAL PERSONNEL

Mr. EARLY. Last year, Mr. Chairman, as you recall, we added personnel to your budget. How many positions did we add?

Mr. BAER. You added 12 positions.

Mr. EARLY. Twelve were in the supplemental budget?

Mr. BAER. Yes.

Mr. EARLY. Are they all filled now, Mr. Chairman.

Mr. BAER. They are all filled or committed. The twelfth one is being filled by a person who is reporting two weeks from yesterday.

Mr. EARLY. And are they helping out the situation?

Mr. BAER. Yes, sir. They were very, very much needed, and I want to thank you, Mr. Chairman, for putting those in the budget.

Mr. EARLY. Last year when we put them in, Mr. Chairman, they weren't requested by your agency. We recognize that it varies with each particular agency. Your budget request for fiscal year 1986, however, does not include any additional personnel, does it?

Mr. BAER. No. Our budget submitted to OMB did request additional positions.

Mr. EARLY. My next question is, did you originally request any additional positions from the Department of Justice or OMB?

Mr. BAER. Yes, sir.

Mr. EARLY. Your budget that is before us today, does that include any additional personnel?

Mr. BAER. No, sir.

Mr. EARLY. Your request to OMB was for how many additional people?

Mr. BAER. Seventeen additional people, sir.

Mr. EARLY. Would you please quickly summarize where you think you needed these additional personnel.

Mr. BAER. We needed some additional hearing examiners and some additional analysts. When most government agencies were cutback in 1979, 1980 and 1981, we had three analysts in each regional office, and during that period of time when we had to cutback, we had to cut back to two. Three analysts, we thought, were needed. We needed some additional support positions. We needed two programmers and a support position to carry out our new program with our word processors and computer system, and we needed an additional attorney and support position.

Mr. EARLY. Let me ask you, Mr. Chairman, who is going to pick up the slack for these additional examiners and analysts you originally asked OMB for?

Mr. BAER. Mr. Chairman, we will make every effort to get the job done with the resources that we have.

Mr. EARLY. It probably isn't wise, Mr. Chairman, or fair, if these cutbacks are going to result in anything but the best hearings. It is tough to be incarcerated, as we discussed last year.

Mr. BAER. Yes, sir.

Mr. EARLY. It is very difficult for the commission to release prisoners, and remain on the conservative side. But keeping them incarcerated, certainly is the politically easy way for you because you can't get into any trouble with that system. As far as that being the best system, however, I am not sure. The fewer hearing examiners and analysts you have, however, the more conservative I would expect your board would become.

Mr. BAER. Mr. Chairman, let me say it this way. The hearings that we conduct give a full and fair consideration to the inmate. I would say that, to the best of my knowledge, we don't keep somebody in longer because we don't have the time to give him a sufficient hearing. We have developed what we call a prehearing review, in which our examiners review the material that we are going to use to make the decision, prior to the hearing. So we are making the hearing a little more efficient. In direct answer to your

question, the quality of the hearing and the quality of the justice, I feel, will not be diminished.

#### HEARINGS VS. RELEASE

Mr. EARLY. Can you provide for the record, Mr. Chairman, what has been the rate of hearings to parole and release over the last couple of years?

Mr. BAER. I can tell you that roughly 35 percent of the people that we hear are released under mandatory release rather than parole, but that is because in that percent of the cases the sentences that are meted out by the courts are lower than the minimum our guidelines call for. That is another way of saying that our guidelines are pretty tough. In a little over a third of the cases the sentence that the judge gave was cut short, the amount of time did not reach our guidelines.

[The following information was submitted:]



DATA AND STATISTICS

REGARDING HEARINGS, PAROLE RELEASE DECISIONS, ETC.

Enclosed is a copy of our latest Workload and Decision Trends, a statistical review for fiscal years 1981-1984. That document, dated December 1984, contains summary data both for the Commission as a whole and for our five regions in particular.

UNITED STATES PAROLE COMMISSION

U.S. Department of Justice

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Workload and Decision Trends: Statistical Highlights  
(Fiscal Years 1981 - 1984)

Patricia L. Hardyman  
Research Assistant

U.S. Parole Commission Research Unit

Report Forty

December 1984

## INTRODUCTION

The following tables are designed to display statistical highlights of Commission workload and decision trends by region during Fiscal Years 1981, 1982, 1983, and 1984 (i.e., 10/80-9/81, 10/81-9/82, 10/82-9/83, 10/83-9/84)). These data are obtained from the Coding/Docketing forms completed by Research Technicians in the Regional Offices and Central Office.

Table I . . . . . Hearing Examiner Workload

Table II . . . . . Parole Grants and Warrants

Table III . . . . . Guideline Usage

Table IV . . . . . Presumptive Date Pre-Release Reviews

Table V . . . . . Results of Panel Recommendations

Table VI . . . . . Representation

Table VII . . . . . Regional Appellate Decisions

Table VIII . . . . . National Appellate Decisions

Table IX . . . . . Original Jurisdiction Cases

Table I  
HEARING EXAMINER WORKLOAD:  
HEARINGS AND RECORD REVIEWS

TYPE OF HEARING	FISCAL YEAR	REGION					
		All Regions	Northeast	Southeast	South Central	Western	North Central
Initial	1981	7,788	1,620	2,143	1,422	1,263	1,340
	1982	8,745	1,536	2,512	1,789	1,205	1,703
	1983	10,678	2,333	2,688	2,352	1,262	2,043
	1984	10,010	2,127	2,422	2,042	1,227	2,192
Revocation: Institutional	1981	2,039	416	577	333	284	429
	1982	1,949	450	410	311	364	414
	1983	2,132	570	348	351	411	452
	1984	1,890	453	329	360	371	377
Revocation: Local	1981	369	46	64	21	117	121
	1982	346	34	61	45	112	94
	1983	331	37	58	67	101	68
	1984	352	71	45	80	84	72
Rescission	1981	1,095	286	189	181	203	236
	1982	879	249	154	209	118	149
	1983	671	163	114	108	132	154
	1984	780	195	120	143	155	167
Statutory Review/ Interim	1981	1,579	320	283	195	390	391
	1982	1,744	485	354	111	381	413
	1983	2,042	512	398	232	453	447
	1984	2,137	535	445	317	407	433
Other	1981	365	72	104	36	102	51
	1982	310	65	89	43	36	77
	1983	443	83	93	47	139	81
	1984	330	118	65	57	38	52
Dispositional Revocation	1981	825	187	147	47	150	294
	1982	353	83	58	63	70	79
	1983	368	137	33	13	86	99
	1984	366	105	49	33	61	118
Total Hearings	1981	14,060	2,947	3,507	2,235	2,509	2,862
	1982	14,326	2,902	3,638	2,571	2,286	2,929
	1983	16,665	3,835	3,732	3,170	2,584	3,344
	1984	15,865	3,604	3,475	3,032	2,343	3,411

Table I (cont'd)

TYPE OF HEARING	FISCAL YEAR	REGION					
		All Regions	Northeast	Southeast	South Central	Western	North Central
Presumptive Date Record Reviews	1981	4,480	1,104	1,145	751	636	844
	1982	4,367	1,208	984	732	620	823
	1983	4,797	1,081	1,231	1,026	617	842
	1984	4,908	1,437	1,145	994	578	754
Total	1981	18,540	4,051	4,652	2,986	3,145	3,706
Considerations	1982	18,693	4,110	4,622	3,303	2,906	3,752
	1983	21,462	4,916	4,963	4,196	3,201	4,186
	1984	20,773	5,041	4,620	4,026	2,921	4,165

Note: Some considerations included as Hearings were actually on the record because the prisoner was granted parole on the record or was serving concurrent federal and state sentences in a state institution. The actual number of in-person hearings conducted in each region may be obtained from Table VI (A + B).

Table II  
PAROLE GRANTS AND WARRANTS

FISCAL YEAR	REGION					
	All Regions	Northeast	Southeast	South Central	Western	North Central
A. PERCENT GRANTED PAROLE/REPAROLE ON ADULT SENTENCES - FINAL DECISIONS ONLY						
1981	64.8	64.0	68.3	65.9	57.0	65.9
1982	64.0	67.3	62.7	63.3	59.8	65.9
1983	64.0	64.3	64.3	66.2	60.4	63.2
1984	63.4	67.7	63.5	63.8	61.2	59.3
B. NUMBER OF EFFECTIVE PAROLE/REPAROLE GRANTS - ADULT SENTENCES ONLY						
1981	5,436	1,072	1,608	939	751	1,066
1982	5,283	1,063	1,401	983	706	1,130
1983	6,214	1,125	1,663	1,426	763	1,237
1984	6,073	1,414	1,461	1,331	734	1,133
C. NUMBER OF EFFECTIVE PAROLE/REPAROLE GRANTS - ALL SENTENCE TYPES						
1981	6,544	1,359	1,894	1,100	980	1,211
1982	6,289	1,495	1,539	1,060	967	1,228
1983	7,197	1,703	1,704	1,464	1,066	1,260
1984	6,865	1,902	1,487	1,345	982	1,149
D. WARRANTS ISSUED FOR PAROLE AND MANDATORY RELEASE VIOLATORS - ALL SENTENCE TYPES (does not include supplemental charges)						
1981	3,538	863	680	572	627	796
1982	3,261	820	566	569	649	657
1983	3,136	839	469	609	678	543
1984	2,897	842	530	405	569	551

Notes to Table II:

1. While the percentage granted parole has traditionally served as an indicator of paroling policy, it has several limitations. First, it is affected by changes in types of offenders entering the system. For example, the rate of parole grants for auto thieves (whose number entering the federal system has declined over the years) may not be the same as for narcotic dealers (whose number has risen). Second, the measure may be affected by changes in sentencing practices. For example, everything else being equal, the longer the sentence, the greater the likelihood of parole at some point before sentence expiration.
2. "Final Decisions Only" refers to cases granted effective parole vs. cases continued to expiration without further review.
3. The above figure do not reflect decisions modified under the Commission's appellate or reopening provisions.

Table III

GUIDELINE USAGE:  
PERCENT OF DECISIONS WITHIN, ABOVE, AND BELOW  
PAROLING POLICY GUIDELINES

A. INITIAL HEARINGS					B. REVOCATION HEARINGS				
Region	Year	Within	Above	Below	Total Decisions	Within	Above	Below	Total Decisions
ALL	1981	84.4	9.7	5.9	7,718	80.4	13.3	6.3	2,406
	1982	86.5	8.4	5.0	8,745	80.9	13.6	5.5	2,295
	1983	86.7	7.9	5.4	10,678	82.8	12.7	4.5	2,463
	1984	88.6	8.0	3.5	9,926	80.5	16.7	2.8	2,235
NE	1981	84.3	13.4	2.4	1,613	78.7	19.3	2.0	461
	1982	84.0	11.1	5.0	1,536	77.9	21.3	0.8	484
	1983	82.9	6.9	10.3	2,333	78.6	17.3	4.1	607
	1984	85.3	8.2	6.5	2,091	76.0	21.9	2.1	521
SE	1981	85.5	4.9	9.6	2,137	83.5	8.9	7.6	641
	1982	87.7	7.8	4.5	2,512	81.9	14.5	3.6	471
	1983	89.5	7.2	3.4	2,688	84.3	12.3	3.4	406
	1984	90.4	7.3	2.3	2,413	85.2	12.4	2.4	371
SC	1981	84.2	10.2	5.6	1,412	79.6	6.2	4.3	353
	1982	86.4	7.3	6.3	1,789	78.6	18.3	3.1	356
	1983	84.7	9.8	5.5	2,352	81.8	13.4	4.8	418
	1984	87.1	10.4	2.3	2,032	72.3	25.9	1.8	440
W	1981	78.7	14.7	6.6	1,227	77.8	13.2	9.0	401
	1982	81.5	12.0	6.5	1,205	82.8	9.0	8.2	476
	1983	83.7	10.1	6.1	1,262	81.5	12.1	6.4	512
	1984	86.5	7.4	6.1	1,216	84.2	10.6	5.3	455
NC	1981	88.0	8.1	3.9	1,329	80.7	11.5	7.8	550
	1982	90.8	5.8	3.5	1,703	82.7	6.5	10.8	508
	1983	91.4	6.4	2.1	2,043	88.4	7.9	3.7	520
	1984	92.2	6.5	1.3	2,174	86.4	11.4	2.2	448

Note: For this table, only discretionary decisions outside the guidelines are counted as above or below. Decisions to deny parole where the mandatory release date is below the guideline range, and decisions to grant an effective parole date above the guideline range only because of time needed to develop a suitable release plan or because the minimum sentence is above the guideline range, are counted as within.

Table IV

PRESUMPTIVE DATE PRE-RELEASE REVIEWS:  
PERCENT GRANTED EFFECTIVE PAROLE DATES

FISCAL YEAR	REGION					
	All Regions	Northeast	Southeast	South Central	Western	North Central
1981	90.0	87.6	96.2	87.0	86.9	89.9
1982	91.2	87.2	97.8	91.7	89.0	90.6
1983	95.3	95.4	98.7	96.0	92.6	91.6
1984	94.6	95.1	97.4	96.6	88.3	91.6
Total Number of Decisions						
1981	4,492	1,107	1,152	751	639	843
1982	4,367	1,208	984	732	620	823
1983	4,797	1,081	1,231	1,026	617	842
1984	4,945	1,439	1,145	1,024	583	754



Table V  
RESULTS OF PANEL RECOMMENDATIONS  
(HEARINGS ONLY)

DECISION METHOD	FISCAL YEAR	REGION					
		All Regions	NE	SE	SC	W	NC
			PERCENT				
1. Panel Recommendation Adopted by Regional Commissioner							
a. Consensus Decision by Panel	1981	83.0	83.3	88.4	75.4	83.7	81.3
	1982	85.5	85.8	89.5	78.3	84.6	87.4
	1983	84.9	85.9	95.5	78.8	77.4	83.7
	1984	83.8	82.8	85.9	82.1	80.3	86.7
b. Split Decision by Panel	1981	3.0	4.8	1.2	4.7	3.2	1.7
	1982	2.8	3.9	1.4	4.0	3.7	1.5
	1983	2.4	3.0	1.3	2.6	5.4	0.6
	1984	3.0	4.7	2.6	2.6	5.3	0.4
2. Panel Recommendation Modified by Regional Commissioner							
a. Under §2.24(b)(1)	1981	2.4	1.8	2.6	1.7	3.8	2.3
	1982	2.4	2.2	2.7	2.8	3.0	1.5
	1983	2.3	2.4	0.7	0.9	4.2	3.8
	1984	2.4	1.0	0.7	1.6	4.2	2.4
b. Under §2.24(b)(2)	1981	7.1	4.9	5.5	16.8	3.9	6.6
	1982	6.8	4.5	5.8	13.5	5.4	5.8
	1983	8.0	5.5	2.0	16.7	10.9	7.4
	1984	8.4	7.5	9.5	9.9	8.6	6.7
3. Case Referred to National Commissioners							
a. Under §2.24(a)	1981	3.2	3.2	1.5	1.2	4.4	5.6
	1982	1.3	1.4	0.4	1.1	2.1	1.7
	1983	1.3	1.7	0.2	0.8	1.3	2.8
	1984	1.5	2.1	0.7	0.5	0.6	3.0
b. Under §2.17	1981	1.4	2.0	0.8	0.4	1.0	2.5
	1982	1.2	2.3	0.2	0.3	1.2	2.1
	1983	1.0	1.7	0.4	0.3	0.8	1.7
	1984	0.9	1.8	0.5	0.3	1.1	0.8

Table VI

REPRESENTATION:  
PERCENTAGE OF PAROLE CONSIDERATION HEARINGS WITH REPRESENTATIVES

FISCAL YEAR	REGION					
	All Regions	Northeast	Southeast	South Central	Western	North Central
A. PERCENTAGE OF HEARINGS (OTHER THAN REVOCATION) WITH REPRESENTATIVES:						
1981	31.8	34.9	31.9	21.3	31.4	36.8
1982	29.0	32.8	28.0	21.1	31.5	31.5
1983	27.8	35.3	26.8	20.4	27.8	27.6
1984	27.1	37.2	25.7	18.6	30.0	23.1
Total Number of Hearings						
1981	11,219	2,364	2,774	1,773	2,041	2,267
1982	11,539	2,278	3,047	2,035	1,856	2,323
1983	13,476	3,110	3,147	2,526	2,033	2,660
1984	12,695	2,901	2,882	2,328	1,823	2,761
B. PERCENTAGE OF REVOCATION HEARINGS WITH REPRESENTATIVES:						
1981	40.9	44.2	35.8	26.1	51.1	46.3
1982	41.7	35.9	41.2	24.5	51.2	50.5
1983	40.4	33.0	38.4	33.7	53.1	43.6
1984	43.4	37.1	45.4	32.9	55.0	47.6
Total Number of Hearings						
1981	2,423	464	646	353	409	551
1982	2,354	499	481	359	506	509
1983	2,508	628	409	419	527	525
1984	2,317	555	377	450	469	466

Table VII  
REGIONAL APPELLATE DECISIONS

ACTION	FISCAL YEAR	REGION					
		All Regions	NE	SE	SC	W	NC
PERCENT							
A. Prior Decision Affirmed	1981	92.3	98.4	85.3	86.7	94.0	96.5
	1982	95.2	96.4	93.8	92.4	97.1	97.1
	1983	94.3	96.0	92.4	93.6	94.4	95.9
	1984	96.6	98.0	93.0	97.6	96.7	98.3
B. Remanded for Rehearing	1981	1.0	0.3	1.4	0.9	1.7	0.7
	1982	0.8	0.7	1.7	0.3	0.3	0.4
	1983	0.3	0.0	0.7	0.2	0.5	0.0
	1984	0.5	0.6	0.7	0.2	0.8	0.2
C. Prior Decision Modified or Reversed	1981	6.7	1.3	13.2	12.4	4.3	2.8
	1982	4.1	3.0	4.5	7.3	2.5	2.6
	1983	5.4	4.0	6.9	6.1	5.2	4.1
	1984	2.9	1.4	6.3	2.1	2.5	1.5
NUMBER OF APPEALS							
	1981	3,961	958	945	645	586	822
	1982	3,919	744	1,053	750	593	779
	1983	4,310	931	1,138	848	637	756
	1984	4,407	915	1,073	933	606	880

Note:

Action C: 'Prior Decision Modified or Reversed' includes only decisions in which the release date was changed.

Table VIII  
NATIONAL APPELLATE DECISIONS

ACTION	FISCAL YEAR	REGION					
		All Regions	NE	SE	SC	W	NC
PERCENT							
A. Prior Decision Affirmed	1981	81.9	80.9	88.8	75.0	78.1	85.2
	1982	79.8	80.4	77.7	78.1	79.9	82.8
	1983	87.2	90.6	87.5	84.8	84.1	88.4
	1984	86.9	87.1	86.6	86.5	87.8	86.9
B. Remanded for Rehearing	1981	1.3	1.2	1.3	1.2	1.2	1.6
	1982	1.2	1.2	1.3	1.1	0.8	1.5
	1983	0.7	0.0	0.3	0.7	1.3	1.8
	1984	0.5	0.3	0.6	0.7	0.5	0.5
*C. Prior Decision Modified or Reversed	1981	16.8	18.0	9.9	23.8	20.7	13.2
	1982	19.0	18.4	21.0	20.8	19.3	15.7
	1983	12.0	9.4	12.3	14.5	14.6	9.8
	1984	12.6	12.6	12.9	12.8	11.8	12.7
NUMBER OF APPEALS							
	1981	2,630	763	545	496	333	493
	1982	2,486	521	611	452	378	524
	1983	2,732	531	774	553	384	490
	1984	3,165	633	722	713	442	655

## \*Note:

The Action 'Prior Decision Modified or Reversed' includes only decisions in which the release date was changed.

Table IX  
ORIGINAL JURISDICTION CONSIDERATIONS

FISCAL YEAR	REGION					
	All Regions	Northeast	Southeast	South Central	Western	North Central
A. Original Jurisdiction Cases						
1981	183	56	28	8	23	68
1982	172	66	9	9	28	60
1983	163	64	13	9	20	57
1984	147	66	19	8	27	27
B. Original Jurisdiction Appeals						
1981	91	33	23	3	6	26
1982	105	28	8	4	17	48
1983	63	31	4	6	8	14
1984	74	33	6	7	11	17

## PAY CUT

Mr. EARLY. That is surprising.

Chairman Baer, you requested a reduction of \$194,000 for a 5 percent pay cut for federal civilian employees. Is this the full amount that would be needed to be restored in order to maintain salaries in fiscal year 1986 at the 1985 level?

Mr. BAER. Ms. Clark, would you answer that.

Ms. CLARK. I would have to assume it is, because that was the only cut that was given to us by OMB.

Mr. EARLY. Chairman Baer, let me ask you this question. In your professional opinion do your people do so little work that you think they deserve a 5 percent reduction in pay?

Mr. BAER. Mr. Chairman, I think, as I told you on previous occasions, the people in our organization, work very, very hard.

I am surprised, myself, at the number of people that come in and work on Saturday on their own. I have had some support staff—and I can document this, Mr. Chairman—who worked for another federal agency, came with us, and after several months returned, because you might say in the vernacular, we worked them too hard.

Mr. EARLY. Do they get overtime, Mr. Chairman?

Mr. BAER. It is possible to pay Grades 9 and below overtime, and on occasion we do that.

## ADJUSTMENTS TO BASE

Mr. EARLY. That is very nice. You at least pay the employees below Grade 9 overtime. The FBI pays the people above Grade 9. I think your system is a lot more equitable.

You are requesting an increase of \$544,000 for uncontrollable increases. Does this amount represent the full cost of these items, and if it does not, how much of these increases are you absorbing?

Mr. BAER. I believe that covers the full cost of those items, yes, sir.

Mr. EARLY. You are requesting a slight decrease of \$8,000 for full field investigations. How were you able to reduce the rate of this activity?

Ms. CLARK. OPM reduced the rate that they were charging us from \$1,450 to \$1,375.

Mr. EARLY. Who was that?

Ms. CLARK. OPM, Office of Personnel Management.

Mr. EARLY. They just reduced the rates? Isn't anyone going to complain about that?

Ms. CLARK. I won't.

Mr. EARLY. I yield to Mr. Smith.

Mr. SMITH. I don't have any questions, thank you.

## IMPLEMENTATION OF CRIME CONTROL ACT

Mr. EARLY. In your statement you note that even with the change in guidelines and the eventual phase-out of the Parole Commission as a result of passage of the Crime Control Act, that the Parole Commission's workload will not begin to diminish until 1988, which I think this committee suspected last year when we

were discussing this particular bill. Does the budget request for resources of personnel adequately meet the Commission's needs, given the fact you don't expect your workload to diminish in the near future?

Mr. BAER. I am not sure I understand the question, Mr. Chairman.

Mr. EARLY. In your statement you suggest that the Crime Control Act that was implemented, may not be done so in a timely manner.

Mr. BAER. It may not.

Mr. EARLY. It may not? Why don't you carefully look over what is going to happen, or what you suspect will happen. Then for the record provide what you will need in addition, if you are going to be asked to continue some things that you thought would be phased out.

Mr. BAER. We will submit that for the record.  
[The information follows:]

#### STAFFING NEEDS—COMPREHENSIVE CRIME CONTROL ACT OF 1984

Under the provisions of the Act, the sentencing guidelines would go into effect in November 1986. Therefore, there would be no impact on our workload for 1986. Any changes to our responsibilities, and thus our staffing needs, would not occur under the Act as passed until at least 1987.

However, there has been delay in the implementation of the Act: the Sentencing Commission has yet to be appointed and the two-year period for development and congressional review of the sentencing guidelines has yet to commence. Furthermore, there are *ex post facto* consequences in regards to the effective date of the implementation and the sentencing guidelines that will result, we feel, in maintaining the size of our caseloads for at least six months after sentencing guidelines are in use. Thus, there will be no impact on our staffing needs in 1987.

It is both difficult and premature to project impact for 1988. First, we do not know when the sentencing guidelines system will commence and, second, there are ongoing discussions and suggested amendments to the Act that could result in a change to the phase-out schedule.

#### ADVANCING PAROLE

Mr. EARLY. Also, Mr. Baer, you will remember last year you and I had a discussion about the possibility or feasibility of saving prison space by advancing parole. It is discretionary but we used two months. Has any more consideration been given to that?

Mr. BAER. We asked our staff to look at our existing policy, which calls for release at the bottom of the guidelines, unless there is suitable reason not to. That is what we call our policy on parsimony. However, in looking at this, it seems that in a large number of cases there are sufficient and significant reasons not to do that in as many cases as we thought we might. Dr. Hoffman may have some figures on that.

Another plan that we had, in which we looked at the cases that received sentences where the eligible parole date, the one third, occurred at a date which was above the top of our guidelines. We reviewed a large number of those cases, but there weren't very many that were submitted to the court.

#### INCARCERATION OF ELDERLY PERSONS

Mr. EARLY. Chairman Baer, there is no question as to the difficulty of your job. It is a job which I assume one would not want to

have, but as the program increases on the prison end of it, we have got to have beds made available. How we make them more available more quickly I don't know. It certainly isn't by getting tighter with the parole system.

Dr. Hoffman, do any of your studies show how many people you have got incarcerated at the ages over 80, 70, and so on and so forth?

Mr. HOFFMAN. I don't have that figure. My suspicion is that it is very, very few.

#### RELEASE OF PRISONERS

Mr. EARLY. Does the commission ever look to find a way to parole the ones that would be the least threat to society?

Mr. HOFFMAN. As the chairman has mentioned, there were two initiatives, one which we call parsimony, was to issue direction to the hearing examiners and the commissioners that the presumption would be release at the bottom rather than the middle of the applicable guideline range, unless there was good cause to go into the guideline range. But the statistics indicate that a substantial number of the cases were at the bottom of the guideline range in the first place. This formalizes an existing practice, so that we did not produce many beds through that vehicle.

A second vehicle was to take a look at the cases in which the minimum judicial sentence exceeded the guideline range, potentially disparately high minimum sentences, and the commission reviewed about 1,400 of those cases. The task was to review them to see whether sufficient aggravating factors existed in those cases that would have caused the commission to exceed the guideline range on its own volition.

Of that group, there were a number of the cases, probably in the range of 300 or 400, which would have qualified if some other things came to pass for a possible request to the court for reduction in sentence, but that presumed that all these cases would have an adequate record of good disciplinary behavior in the prison. These cases would be spread out over time, because they are not all coming up for parole immediately.

Furthermore, that process is somewhat complicated because, while with cases transferred from the District of Columbia under D.C. law, the Parole Commission itself would have the authority to petition a court for a reduction in sentence, the way the federal law is set up, the commission would not have this authority. That is, the commission could refer these cases to the Bureau of Prisons; the case would have to come up through the chain in the Bureau of Prisons, eventually winding up with Mr. Carlson, who would have to make the petition to the court. So there were not that many cases, and there were other obstacles in the process so that not very many cases resulted from that initiative.

Mr. EARLY. So, there are 1,400 you review, and you say three to four hundred fall in to possible early-parole category. What did you do to review these specific cases and circumstances?

Mr. BAER. The commission referred those cases to the Bureau of Prisons.

Mr. EARLY. The three to four hundred?



Mr. BAER. The three to four hundred.

#### RECOMMENDATION FOR EARLY RELEASE

Mr. EARLY. Can you give the Committee any idea as to how many recommendations we had?

Mr. HOFFMAN. I don't think that more than four to five actually got to the courts.

Mr. EARLY. Only 4 to 5 got to the courts for reduction of sentence?

Mr. HOFFMAN. Right, and that presumes that the court would grant the reduction in sentence. I mean, the court would not be obligated to do that.

Mr. EARLY. No, the courts are conservative too, and no one wants to do that, because that is the only decision that can get you in trouble. At the same time, it is that type of aggressive activity that we have to have, to have room for the ones that we must incarcerate. It is very tough for people sitting in your position, Chairman Baer, to take the initiative and do what is in everyones best interests. I have tremendous reservations about that.

You say you reviewed up to 1,400 cases. They would all be a threat, some less than others. I am not sure we are going in the right direction when we don't give your commission more autonomy and ask you to make those tough decisions. I hope that you have enough people, qualified people, that have the opportunity to review these 1,400. Who reviewed these 1,400? Was it the commission itself or was it the hearing examiners?

Mr. BAER. The hearing examiners made the initial review, but a commissioner also reviewed them before they were forwarded.

#### VACANCIES

Mr. EARLY. One final question, Chairman Baer. How come the twelve positions we gave you, which you needed so badly in the Committee's opinion, took you so long to fill?

Mr. BAER. That is a very good question. Most of them were filled very rapidly, because we started the process in August, when we knew we were going to get them. The only one that was not filled until right now was for a programmer, and it just took us a long time to find somebody who was qualified to do the job that we needed done.

Mr. EARLY. In recruiting them in your ad, you tell them you were going to cut their pay 5 percent?

Mr. BAER. No, sir.

Mr. EARLY. Chairman Baer and Dr. Hoffman, I want to thank you for appearing at this hearing. We have a few more questions which we shall submit and you can answer for the record.

[Questions submitted for the record follow:]

## QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

## DEPARTMENT OF JUSTICE

U.S. Parole CommissionQUESTION:

Is there presently a standardized national parole policy? To what extent is it adhered to? I noted in your justifications that "score scales" are used by the Commission during parole hearings. Please explain this.

ANSWER:

Yes, there is a standardized parole policy. For more than ten years, the United States Parole Commission has used explicit guidelines to provide standardization of federal parole decisions. First implemented in 1973, the Parole Commission and Reorganization Act of 1976 specifically mandated the continued use of such guidelines for parole decision making. Parole guidelines, and now sentencing guidelines, have been adopted by various state systems based, to an extent, on our model. Moreover, the success of the federal parole decision guidelines has been instrumental in the move for the creation of a U.S. Sentencing Commission and the adoption of the guideline concept for sentencing decisions, both enacted recently as part of the Comprehensive Crime Control Act of 1984.

As to adherence, approximately 86 percent of the decisions at initial hearings fall within the guideline ranges. Departures are authorized for good cause and for a number of specified reasons. For your information, about 8 percent of the decisions are above the ranges and the remaining 6 percent below. I have enclosed a brief overview of the parole guideline system ("Parole Guidelines", reprinted from the Encyclopedia of Crime and Justice).

One dimension of the sentencing guidelines is the salient factor score. This is a predictive device used to assess a prisoner's likelihood of recidivism upon release. A brief article ("Screening for Risk: A Revised Salient Factor Score" reprinted from the Journal of Criminal Justice) describing the development of the device is included. A copy of the parole guidelines themselves, along with the instructions for their use, has been provided to the Subcommittee.

**"PAROLE GUIDELINES"**

**Peter B. Hoffman**

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## PROBATION AND PAROLE

*The article on PAROLE GUIDELINES describes and assesses experience with the guidelines that are utilized in an effort to improve parole decision-making and particularly to reduce disparities in the time served in federal prisons.*

### 1.

#### PAROLE GUIDELINES

*The statements and opinions expressed here are those of the author and do not necessarily represent those of the United States Parole Commission or the Department of Justice.*

One of the most troublesome issues in the administration of criminal justice concerns the appropriate use of discretionary power. On the one hand, the unguided and unfettered exercise of discretion can produce arbitrary and capricious decisions, decision inequity, and unwarranted disparity. Such has been a major criticism of sentencing and parole practices. On the other hand, the application of rigid and mechanical rules can lead to equally unjust and undesirable results. This article describes a set of principles and procedures that has been adopted by the United States Parole Commission to address the use of discretion in parole selection.

**Structuring discretion.** In an effort to structure its broad discretion and provide rational, consistent, and equitable decisions without removing the opportunity for consideration of individual case factors, the United States Parole Commission has promulgated decision-making guidelines (U.S. Department of Justice). These guidelines set forth the major elements considered in the parole selection decision and the weights customarily given to them. The guideline concept postulates that by articulating the major decision criteria and the customary decision policy associated with

each combination of major decision elements, a decision framework can be created that is specific enough to guide and control discretion, yet flexible enough to allow deviation from customary policy where warranted by the facts and circumstances of particular cases.

The parole guideline system is a product of a three-year study of federal parole decision-making funded by the Law Enforcement Assistance Administration and conducted by the Research Center of the National Council on Crime and Delinquency in a collaborative effort with federal parole board members and staff. The guideline matrix developed was first used experimentally in actual case decision-making in October 1972. By 1974, its use had been expanded to all federal parole selection decisions on a permanent basis.

**The guideline matrix.** The guideline matrix used by the Parole Commission (28 C.F.R. § 2.20 (1981)) is in the form of a two-axis chart. Table 1 displays this matrix in abbreviated form. On the vertical axis, the seriousness (gravity) of the prisoner's current offense is considered. Seven categories of offense severity are set forth. For each category, the Commission has listed examples of common offense behaviors. Placement of offense behavior examples along the severity axis is a policy decision reflecting the judgment of the Commission members as to the seriousness or gravity of these behaviors. Not all possible offense behaviors are listed, and severity ratings for those not listed must be determined by extrapolation and interpolation from those that are listed.

On the horizontal axis, four categories of parole prognosis (very good, good, fair, and poor) are specified. A prediction device, termed a *salient factor score*, is used to assist in making parole prognosis assessments. This device was developed from a statistical analysis of the records of persons previously released from federal prisons. Figure 1 displays this device. Commission regulations provide that the salient factor score is to be used to assess the appropriate prognosis category: for example, a salient factor score of

TABLE 1. Guidelines for decision-making (customary total time to be served before release)

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (10 to 8)	Good (7 to 6)	Fair (5 to 4)	Poor (3 to 0)
<i>Low</i>				
Gambling law violations (no managerial or proprietary interest)	<=6 months	ADULT RANGE 6-9      9-12 months   months		12-16 months
Marihuana/hashish, possession with intent to distribute/sale (very small scale (e.g., less than 10 lbs. of marihuana/less than 1 lb. of hashish/less than .01 liter of hash oil))	<=6 months	(YOUTH RANGE) (6-9)      (9-12)      (12-16) months   months   months		
<i>Low moderate</i>				
Counterfeit currency or other medium of exchange ((passing/possession) less than \$2,000)	<=8 months	ADULT RANGE 8-12      12-16 months   months		16-22 months
Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than \$2,000	<=8 months	(YOUTH RANGE) (8-12)      (12-16)      (16-20) months   months   months		
<i>Moderate</i>				
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) \$2,000-\$19,999	10-14 months	ADULT RANGE 14-18      18-24 months   months		24-32 months
Smuggling/transporting of alien(s)	(8-12) months	(YOUTH RANGE) (12-16)      (16-20)      (20-26) months   months   months		
<i>High</i>				
Involuntary manslaughter (e.g., negligent homicide)	14-20 months	ADULT RANGE 20-26      26-34 months   months		34-44 months
Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/income tax evasion/receiving stolen property) \$20,000-\$100,000	(12-16) months	(YOUTH RANGE) (16-20)      (20-26)      (26-32) months   months   months		

## PROBATION AND PAROLE: Parole Guidelines

TABLE 1. Guidelines for decision-making (cont.)

Offense characteristics: severity of offense behavior (examples)	Offender characteristics: parole prognosis (salient factor score)			
	Very good (10 to 8)	Good (7 to 6)	Fair (5 to 4)	Poor (3 to 0)
<i>Very high</i>				
Robbery (1 or 2 instances)	ADULT RANGE			
Breaking and entering/burglary of residence; or breaking and entering of other premises with hostile confrontation with victim	24-36 months	36-48 months	48-60 months	60-72 months
Extortion (threat of physical harm (to person or property))	(YOUTH RANGE)			
	(20-26) months	(26-32) months	(32-40) months	(40-48) months
<i>Greatest I</i>				
Aggravated felony (e.g., robbery; weapon fired or injury of a type normally requiring medical attention)	ADULT RANGE			
	40-52 months	52-64 months	64-78 months	78-100 months
Opiates, possession with intent to distribute/sale (managerial or proprietary interest and very large scale (e.g., offense involving more than 50 grams but not more than 1 kilogram (1000 grams) of 100% pure heroin or equivalent amount))	(YOUTH RANGE)			
	(30-40) months	(40-50) months	(50-60) months	(60-76) months
<i>Greatest II</i>				
Aggravated felony—serious injury (e.g., robbery; injury involving substantial risk of death or protracted disability, or disfigurement) or extreme cruelty/brutality toward victim	ADULT RANGE			
	52+ months	64+ months	78+ months	100+ months
Aircraft hijacking	(YOUTH RANGE)			
	(40+ ) months	(50+ ) months	(60+ ) months	(76+ ) months
Specific upper limits are not provided due to the limited number of cases and the extreme variation possible within category.				

General notes, referenced notes, definitions, and other offenses have been omitted from this table.  
Source: 28 C.F.R. § 2.20 (1981).

## PROBATION AND PAROLE: Parole Guidelines

FIGURE 1. Salient factor score

Item A: Prior convictions/adjudications (adult or juvenile)	<input type="checkbox"/>
None = 3	
One = 2	
Two or three = 1	
Four or more = 0	
Item B: Prior commitment(s) of more than thirty days (adult or juvenile)	<input type="checkbox"/>
None = 2	
One or two = 1	
Three or more = 0	
Item C: Age at current offense/prior commitments	<input type="checkbox"/>
Age at commencement of the current offense:	
26 years of age or more = 2*	
20-25 years of age = 1*	
19 years of age or less = 0	
* exception: If five or more prior commitments of more than thirty days (adult or juvenile), place an "x" here and score this item = 0.	
Item D: Recent commitment-free period (three years)	<input type="checkbox"/>
No prior commitment of more than thirty days (adult or juvenile) or released to the community from last such commitment at least three years prior to the commencement of the current offense = 1	
Otherwise = 0	
Item E: Probation/parole/confinement/escape status violator this time	<input type="checkbox"/>
Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement, or escape status violator this time = 1	
Otherwise = 0	
Item F: Heroin/opiate dependence	<input type="checkbox"/>
No history of heroin/opiate dependence = 1	
Otherwise = 0	
Total score	<input type="checkbox"/>

Source: 28 C.F.R. § 2.20 (1981).

10 to 8 results in placement in the "very good" risk category. However, the Commission's decision-makers may use their clinical judgment to override this actuarial aid by rendering a decision outside the guidelines, either above or below, provided that they clearly articulate the specific basis for their action. In this way, the Commission has attempted to combine the advantages of both actuarial and clinical methods in making parole prognosis assessments.

In Table 1, a decision range in months is specified for each combination of offense (severity) and offender (parole prognosis) characteristics. This decision range sets forth Commission policy as to the customary range of months to be served before release, assuming that the prisoner demonstrates good institutional behavior. The actual parole decision is

also subject to the constraints of sentence length, since the parole board has authority to release a prisoner only within the limits of the maximum and minimum sentence imposed.

For example, an adult parole applicant with a moderate severity offense such as forgery/fraud/theft of \$15,000 and a good parole prognosis (a salient factor score of 6 or 7) might be expected to serve between fourteen and twenty months before release, in the absence of particularly aggravating or mitigating factors and assuming good institutional conduct. An adult parole applicant with a very high severity offense such as robbery and a fair parole prognosis (a salient factor score of 4) might be expected to serve between forty-eight and sixty months before release. For Greatest II severity cases, no upper limits are specified. In such cases, decisions must be made by ex-

## PROBATION AND PAROLE: Parole Guidelines

trapolation from the time ranges specified for Greatest I severity cases with similar parole prognosis and institutional behavior.

**Guideline departures.** It must be stressed that the establishment of parole guidelines does not eliminate or even attempt to eliminate all discretion. Rather, it represents an attempt to steer a path between the evils of completely unstructured and unguided discretion and those of a rigid, fixed, and mechanical approach. Decisions outside the guidelines, either above or below, may be made for "good cause," provided that specific reasons are given for departure from the customary policy established by the guideline range. Examples of circumstances that might warrant a departure from guideline policy are particularly aggravating or mitigating offense factors or clinical judgment, supported by specifics, that the applicant is a better or poorer parole risk than indicated by the salient factor score. Since the guideline ranges are predicated upon good institutional conduct, a record of disciplinary infractions in the institution may warrant a decision above the guideline range. On the other hand, sustained participation in institutional programs may reduce the time to be served before release. Specific guidelines governing penalties for institutional misconduct and rewards for superior program achievement have been developed by the Commission to supplement the standards set forth in Table 1.

During the period from 1976 through 1980, approximately 20 percent of Parole Commission decisions at initial parole consideration were discretionary decisions to set a release date above or below the applicable guideline range. Thus, for the substantial majority of cases, the guidelines clearly structure the Commission's exercise of discretion.

**Provision of written reasons.** Use of the guideline matrix facilitates the provision of explicit written reasons for Parole Commission decisions. During a parole consideration hearing, the Commission's representatives (hearing examiners) discuss with the parole applicant his offense severity rating, salient factor score, and applicable guideline range, as well as any other pertinent factors to be considered. After the hearing, the prisoner receives a written notice indicating the official decision and the reasons for it. This statement in each case contains an explanation of the offense severity rating, an item-by-item breakdown of the salient factor score, the applicable guideline range, and the Commission's finding as to whether or not a departure from the guideline range is found warranted. If a decision outside the guidelines is found warranted, the specific reasons for guideline departure are given. Provision of written reasons in

actual case decision-making is shown by the following examples.

*Example 1.* Your offense behavior has been rated as "high severity" because it involved the theft of \$24,000 in bonds. You have a salient factor score of 10. A copy of the item-by-item breakdown is attached. You have been in custody a total of three months. Guidelines established by the Commission which consider the above factors indicate a range of fourteen to twenty months to be served before release for adult cases with good institutional conduct. After review of all relevant factors and information presented, a decision outside the guidelines is not found warranted. Parole after fourteen months in custody, contingent upon a continued satisfactory record of institutional conduct.

*Example 2.* Your offense behavior has been rated as "very high severity" because it involved bank robbery. You have a salient factor score of 2. A copy of the item-by-item breakdown is attached. You have been in custody a total of four months. Guidelines established by the Commission which consider the above factors indicate a range of sixty to seventy-two months to be served before release for adult cases with good institutional conduct. After review of all relevant factors and information presented, a decision above the guidelines appears warranted because (1) you have a repetitive history of assaultive behavior (specifically, you have two prior convictions for armed robbery), and your present offense involved robbery; (2) you have two serious disciplinary infractions for possession of contraband (sharpened instruments). Continue to expiration of sentence (mandatory release occurs at eighty months on your ten-year sentence).

The Parole Commission's format for provision of written reasons has generally received favorable comment. For example, one federal court reviewing a notice similar to those cited above commented: "This statement applying the published Parole Board guidelines to this petitioner is adequate notice of the reasons for denial of parole. A review of the published guidelines in light of the notice given the petitioner reveals with specificity why parole was denied. Petitioner could hardly ask for a more objective and informative evaluation of his parole suitability status" (*Tougas v. Keohane*, Civil Action No. 79-86 (District of Arizona, June 11, 1975)).

**Guideline revision.** Since the danger of the overly rigid application of rules may exist with a guideline system, just as the problem of unwarranted disparity exists when discretion is left unstructured, Commission policy provides that guideline use is to be monitored by its research section and that the guideline



## PROBATION AND PAROLE: Parole Guidelines

matrix is to be reviewed at periodic intervals to consider possible revision. Through these procedures, the Commission can examine the sufficiency of reasons given for departures from the guidelines, the question of whether there are recurring patterns of circumstances for which additional guideline policy may be specified, and the question of whether any revisions in the severity scale, salient factor score, or time ranges are warranted. For example, changes in the salient factor score may be warranted by additional knowledge concerning the prediction of recidivism. Changes in the severity ratings may be warranted by the changing of public attitudes toward certain types of crime. Before final consideration, proposed revisions to the guideline matrix are published to provide an opportunity for public comment under the provisions of the Administrative Procedure Act (part), 5 U.S.C. § 553 (1976 & Supp. III 1979).

**Presumptive parole dates.** The establishment of the guideline system has also afforded prisoners greater certainty as to the time required to be served before release. Since the guideline elements (offense and salient factor score) may be determined at the time of commitment, it is feasible to provide prisoners with initial parole consideration hearings within a short time (usually 120 days) of commitment so as to examine these elements and to establish a presumptive release date (a guaranteed release date contingent upon a clear disciplinary record and development of a suitable release plan). Prisoners are given review hearings by the Commission at periodic intervals after the initial hearing (generally every eighteen or twenty-four months), but presumptive dates once set are changed only for disciplinary infractions, sustained superior program achievement, or exceptional circumstances such as the revealing of significant new information. Furthermore, the advancement of a presumptive date permitted for sustained superior institutional program achievement is purposely kept limited to discourage prisoners from enrolling in programs merely in the hope of impressing the parole board.

Thus, provision of presumptive release dates is designed to reduce the unnecessary uncertainty that has been associated with traditional parole decision-making. In each case, the presumptive release date is contingent upon a record of acceptable institutional conduct. For prisoners serving longer terms, a limited reward for sustained participation in prison programming is allowed.

**The Parole Commission and Reorganization Act.** The guideline system described above was implemented administratively by the United States

Board of Parole between 1972 and 1974. In 1976, the Parole Commission and Reorganization Act of 1976 (part), 18 U.S.C. §§ 4201-4218 (1976) provided a statutory mandate for the continuation of the system. This legislation specifies the major elements to be considered in federal parole grant determinations: offense severity, parole prognosis, and institutional conduct. It requires that the Parole Commission establish explicit guidelines for parole selection that consider the above criteria. Furthermore, it provides that decisions departing from the guidelines be made only for "good cause" and be accompanied by specific reasons for such departure. Thus, decision-makers are obligated to apply the guidelines to each individual case, but retain discretion to render a decision departing from the guidelines provided that they specify adequate reasons for such departure in the case record. That is, each prisoner is told how his case is assessed against the guidelines, and if a decision departing from the guidelines is found warranted, the prisoner is told the specific reasons for such action. In this manner the guideline system facilitates review both of general policy and of individual case decisions. Three sequential questions may be asked. Is the general policy specified by the guidelines reasonable? Were the guidelines correctly applied in a particular case? If the decision was outside the guidelines, were the reasons given for departure from customary policy specific and adequate; or, if the decision was within the guidelines, did substantial reasons exist which made compliance with the guidelines in the particular case unreasonable?

**Summary.** Parole board members make two types of decisions: individual case decisions and broader policy decisions. In individual case decisions, the parole guideline model is intended to provide more rational and consistent decisions while allowing the discretion required for individual case consideration. At the same time, the articulation of decision criteria through the guideline system is intended to promote openness and to facilitate public assessment of the rationality and appropriateness of the Commission's paroling policy. Building upon the experience of the United States Parole Commission, parole guidelines have been developed and implemented in a number of other jurisdictions, including those of Oregon, Washington, Minnesota, New York, Utah, Maryland, Georgia, and Florida.

PETER B. HOFFMAN

*See also* PREDICTION OF CRIME AND RECIDIVISM; PRISONERS, LEGAL RIGHTS OF; PROBATION AND PAROLE, articles on PROCEDURAL PROTECTION and RELEASE AND REVOCATION; REHABILITATION; SENTENCING: GUIDELINES.

## PROBATION AND PAROLE

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**"SCREENING FOR RISK: A REVISED SALIENT FACTOR SCORE  
(SFS 81)"**

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## SCREENING FOR RISK: A REVISED SALIENT FACTOR SCORE (SFS 81)

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### ABSTRACT

*Since 1972, the United States Parole Commission has used an actuarial device as an aid in assessing parole prognosis in conjunction with explicit decision guidelines. This article describes the most recent revision of the actuarial device used by the commission. This device (SFS 81) is examined and compared with the device previously used (SFS 76) on five dimensions: validity, stability, reliability, simplicity, and ethical concerns.*

Determinations of the duration of imprisonment for federal offenders under the jurisdiction of the United States Parole Commission are made pursuant to explicit decision guidelines. These guidelines use a two-dimensional matrix to set forth the customary range of months to be served for various combinations of offense (severity) and offender (parole prognosis) characteristics, assuming good conduct during the period of confinement. Discretionary decisions outside the guidelines are permitted, but only for "good cause" and upon the provision of specific written reasons.<sup>1</sup> As an aid in assessing the parole prognosis dimension of the guideline matrix, the Parole Commission applies an actuarial device known as the "salient factor score."

The most recent revision of the salient factor score (SFS 81) became effective on

August 31, 1981.<sup>2</sup> This device (shown in Appendix A) includes six items which, when added together, produce a score with a range from zero to ten points. The higher the score, the higher is the expected likelihood of favorable outcome upon release (i.e., the lower the probability of recidivism).

Construction, validation, and revalidation of earlier versions of the salient factor score using various follow-up periods and criterion measures have been described by Hoffman and Adelberg (1980), Hoffman and Beck (1974, 1976, 1980), and Hoffman, Stone-Meierhoefer, and Beck (1978). In this research, the revised salient factor score (SFS 81) is compared with the device previously used (SFS 76, shown in Appendix B). The following dimensions are considered: validity, stability, simplicity, scoring reliability, and ethical concerns.

### VALIDITY AND STABILITY

Validity refers to the power of a predictive device: its ability to distinguish the better from the poorer risk cases. Stability refers to the retention of predictive power over time.

Two samples are used in this research. A sample of federal prisoners ( $N=3,955$ ) released to the community during 1970, 1971, and 1972 provided the data base for the construction of the revised salient factor score.<sup>3</sup> An additional sample of federal prisoners ( $N=2,289$ ) released to the community during 1978 provided the data base for validating this device.<sup>4</sup> Cases were selected for each sample by last digit of prisoner identification number.<sup>5</sup> Since prisoner identification numbers are assigned sequentially upon admission, this method provides a reasonable approximation of random selection. All three major forms of release from the federal system—parole, mandatory release (with supervision), and expiration of sentence (without supervision)—are included in each sample. A uniform two-year follow-up period for each case calculated from month of release, regardless of method of release, was provided through access to FBI "rap sheet" records.

Favorable outcome is defined as no new criminal offense resulting in a commitment of 60 days or more, no return to prison for parole or community treatment center violation, no parole violation warrant outstanding, and not killed while committing a criminal offense. Unfavorable outcome is defined as any of the above resulting from an act committed during the two year follow-up period.<sup>6</sup> One-half of the cases in each score/category having one or more arrests lacking dispositional information, but with otherwise favorable outcome, received assignment to the unfavorable outcome category.<sup>7</sup>

For use with the guideline matrix, the salient factor score separates cases into four risk categories. Table 1 displays outcome by score and risk category for the revised salient factor score (SFS 81). Table 2 pre-

sents these data for the salient factor score used previously (SFS 76). Both devices clearly separate parole applicants into four risk groups for each sample. The Mean Cost Rating (MCR), a statistical measure of predictive power, is shown for each device. The relative magnitude of this statistic, which may take on values from .0 to 1, provides an indication of predictive power above that obtained from knowledge of the base rate. The MCRs found (.38-.41) are toward the high end of the range generally reported in parole prediction studies (see, for example, Simon, 1971; Gottfredson and Gottfredson, 1980). No meaningful difference in predictive power between the devices is found on Sample I (MCR [SFS 81]=.38; MCR [SFS 76]=.38). Similarly, no meaningful difference in predictive power found on Sample II (MCR [SFS 81]=.41; MCR [SFS 76]=.40). Examination of these data also shows that the predictive power of each remains stable from Sample I (the 1970-71-72 sample) to Sample II (the 1978 sample).

### SIMPLICITY

Simplicity refers to the absence of complicated mathematics in scoring the device and to the ease with which nonresearchers (e.g., parole decision makers, prison staff, and prisoners) can comprehend the logic and operation of the predictive method. For many years, criminal justice research workers have explored various methods of combining individual items found to be associated with recidivism in an effort to increase predictive power. These methods range from simple additive scoring of items found to be predictive, sometimes referred to in American criminological literature as the Burgess method,<sup>8</sup> to more sophisticated mathematical weighting methods, such as multiple regression and predictive attribute analysis (Gottfredson, 1967). Interestingly, when predictive devices constructed with different methods are put to the test on validation (the application of the device to a new sample—a sample different from the

TABLE 1  
OUTCOME BY SALIENT FACTOR SCORE (SFS 81)

	Percent Favorable Outcome		Number of Cases	
	Sample I %	Sample II %	Sample I	Sample II
Very Good Risk Category (Scores 10-8)	90 (92-88)	88 (91-85)	825	735
10	95 (96-94)	94 (96-93)	189	286
9	92 (93-92)	88 (91-85)	319	244
8	85 (89-80)	80 (85-73)	317	205
Good Risk Category (Scores 7-6)	77 (81-73)	75 (81-69)	830	502
7	81 (84-79)	75 (81-68)	387	253
6	73 (78-69)	76 (81-69)	443	249
Fair Risk Category (Scores 5-4)	63 (68-58)	61 (69-53)	947	542
5	65 (70-60)	64 (72-56)	509	271
4	61 (66-56)	58 (67-49)	438	271
Poor Risk Category (Scores 3-0)	54 (58-50)	51 (60-42)	1,353	560
3	61 (65-57)	55 (64-45)	576	218
2	49 (52-45)	51 (60-41)	477	164
1	49 (55-44)	48 (55-41)	252	137
0	54 (60-48)	41 (51-32)	48	41
All Cases	69 (72-65)	70 (77-64)	3,955	2,339
Mean Cost Rating (MCR)	.38 (.39/.37)	.41 (.41/.43)		

Note:

Sample I is the 1970-71-72 sample; Sample II is the 1978 sample.

Favorable outcome is defined as none of the following during the two-year follow-up period: a commitment of 60 days or more for a new criminal offense; a return to prison as a parole or community treatment center violator; a parole violation warrant outstanding; or killed while committing a criminal act. Unfavorable outcome is defined as any of the above. An arrest during the follow-up period that subsequently results in a commitment of 60 days or more is counted as an unfavorable outcome. Certain minor offenses (e.g., disorderly conduct, drunkenness, traffic offenses) are not counted. One-half of the cases in each category with otherwise favorable outcome but having arrest(s) with pending/missing disposition(s) are scored as having unfavorable outcome.

Figures shown in parentheses display the percentage with favorable outcome obtained if all arrests with pending/missing dispositions had been classified as favorable (the first figure) or unfavorable (the second figure).

one used to construct the device), devices based upon the less sophisticated additive method appear to predict about as well as those constructed using the more sophisticated methods (Simon, 1971; Gottfredson and Gottfredson, 1980). Given this apparent equivalence of predictive power among the different methods, two reasons for preferring an additive type device for operational use stand out. First is its ease of

scoring; only simple addition is required. Second, experience has shown that prisoners, prison staff, and parole decision makers find the logic of an additive device relatively easy to understand: the greater the number of positive attributes, the greater is the likelihood of favorable outcome upon release. Both the current and earlier versions of the salient factor score are based upon an additive method.

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TABLE 2  
OUTCOME BY SALIENT FACTOR SCORE (SFS 76)

	Percent Favorable Outcome		Number of Cases	
	Sample I %	Sample II %	Sample I	Sample II
Very Good Risk Category (Scores 11-9)	92 (93-90)	89 (92-86)	698	642
11	95 (96-93)	96 (97-94)	137	204
10	94 (94-93)	89 (91-86)	287	256
9	88 (90-85)	82 (88-77)	274	182
Good Risk Category (Scores 8-6)	77 (81-73)	73 (79-66)	1,047	662
8	83 (86-79)	80 (85-75)	303	216
7	76 (81-72)	70 (77-63)	355	229
6	73 (77-68)	68 (76-61)	389	217
Fair Risk Category (Scores 5-4)	63 (68-59)	64 (72-56)	1,037	497
5	64 (67-61)	65 (72-57)	452	248
4	62 (68-57)	63 (71-55)	585	249
Poor Risk Category (Scores 3-0)	52 (57-48)	50 (59-41)	1,173	538
3	55 (58-52)	54 (63-44)	509	249
2	52 (58-46)	51 (60-42)	445	194
1	46 (50-42)	39 (49-30)	203	84
0	38 (44-31)	41 (45-36)	16	11
All Cases	69 (72-65)	70 (77-64)	3,955	2,339
Mean Cost Rating (MCR)	.38 (.38/.39)	.40 (.39/.42)		

Note:

Sample I is the 1970-71-72 sample; Sample II is the 1978 sample.

Favorable outcome is defined as none of the following during the two-year follow-up period: a commitment of 60 days or more for a new criminal offense; a return to prison as a parole or community treatment center violator; a parole violation warrant outstanding; or killed while committing a criminal act. Unfavorable outcome is defined as any of the above. An arrest during the follow-up period that subsequently results in a commitment of 60 days or more is counted as an unfavorable outcome. Certain minor offenses (e.g., disorderly conduct, drunkenness, traffic offenses) are not counted. One-half of the cases in each category with otherwise favorable outcome but having arrest(s) with pending/missing disposition(s) are scored as having unfavorable outcome.

Figures shown in parentheses display the percentage with favorable outcome obtained if all arrests with pending/missing dispositions had been classified as favorable (the first figure) or unfavorable (the second figure).

#### SCORING RELIABILITY

Scoring reliability refers to the consistency with which decision makers can score actual cases (both individual items and total score). Scoring reliability may be affected by a number of factors, including the complexity of the items and the difficulty in obtaining verified information about the

items.<sup>9</sup> It might be expected that the greater the number of items, the greater is the chance for error. However, the effect of such error on the total score may actually be less when a large number of equally weighted items is used than when there are only a few more heavily weighted items.<sup>10</sup>

From a decision-making perspective, scoring reliability relates to equity, which

may be defined as a moral imperative to provide similar treatment for similarly situated offenders. Thus, scoring reliability is an important concern, particularly when the choice of alternative items does not materially affect the predictive power of the total score.

Three items contained in SFS 81, "prior convictions," "prior commitments," and "opiate dependence," are also used in SFS 76. "Age at current offense/prior commitments," an item in SFS 81, is somewhat different from "age at first commitment," an item in SFS 76. The age part of the revised item deals only with current behavior and thus should be more reliable in scoring. However, the revised item is also somewhat more complex, since five or more prior commitments produce a zero score. No material difference in scoring reliability between the devices relative to the above items is expected. "Commitment free period" is an item used in SFS 81, but not in SFS 76. In a research pretest, scoring of this item appeared to be straightforward. Of prime importance, two items used in SFS 76, "employment" and "auto/checks," are eliminated. "Employment" proved to be a difficult item to score reliably. In some cases, probation officers did not have time to verify this item before the presentence investigation was due, companies had gone out of business, or an offender had claimed to have worked as a day laborer or "off the books," making reliable assessment difficult. While the "auto/check" item did not pose great difficulty in scoring, its presence in both the parole prognosis (offender characteristics) and severity (offense characteristics) dimensions of the guidelines proved somewhat confusing to persons outside the commission,<sup>11</sup> especially since the underlying reason for its predictive power is not intuitively apparent. Finally, the "probation/parole/confinement/escape status" item used in SFS 81 appears somewhat easier to score reliably than its counterpart in SFS 76, "parole ever revoked/ever committed for a new offense while on parole/probation violator this time," since it concerns only recent behavior. Dates of previous parole

termination are not always readily available, making it difficult in certain cases to determine whether an offender previously committed a new offense while on parole.

In light of these modifications, the revised salient factor score (SFS 81) offers considerable promise for enhanced scoring reliability as well as greater ease of scoring. Time required for score computation and examination of prisoner appeals for alleged scoring error is expected to decrease slightly.

### ETHICAL CONCERNS

Some writers (e.g., von Hirsch, 1976; Singer, 1979) would reject all use of prediction in the application of criminal sanctions (apparently rejecting the traditional concerns of incapacitation and special deterrence, as well as rehabilitation, as reasons for distinguishing among offenders) and would make decisions about offenders only upon the basis of what has been termed "just desert." Von Hirsch (1976) has defined items compatible with "desert" as those concerning the seriousness of the present offense<sup>12</sup> or the frequency, seriousness, and recency of prior offenses. Prior criminal history items, however, tend to be among the items found most predictive of recidivism. Thus, in practice, there is likely to be considerable overlap between a "predictive" dimension and a "desert" dimension.

It appears unlikely that predictive concerns will disappear from the application of criminal justice sanctions. Even if rehabilitation is put aside, both incapacitation and special deterrence are traditional purposes of the criminal law and their inclusion in any penal policy brings forth a concern for prediction. It seems more likely that "just desert" and "prediction" rationales will coexist in practice, although with tension, just as concerns for "crime control" and "due process" coexist. To the extent that alternative candidate items for inclusion in a predictive device are selected with a preference for those compatible with a "just desert" approach, this tension may be reduced.



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Concerning the selection of individual items that are to be included in a predictive device, two separate ethical arguments are relevant. One argument maintains that only items over which the offender could have reasonably been expected to exert control ought to be considered for inclusion. Items such as sex, race, and national origin would be excluded; but it can also be argued that an item such as employment stability should fall into the excludable category, particularly in times of recession. Employment stability, an item in SFS 76, is not used in SFS 81. A second argument maintains that only items which are acceptable under a "just desert" rationale ought to be considered for inclusion. Items that are acceptable under a "just desert" rationale, by definition, are under the offender's control. Thus, items that are acceptable under the second argument are acceptable under the first. SFS 81 places proportionately greater weight than SFS 76 on criminal history items—items that are consistent with a "just desert" approach. Thus, from either of the above perspectives, SFS 81 appears preferable.

### SUMMARY

SFS 81, a six-item predictive device recently adopted by the U.S. Parole Commission as an aid in case decision making, demonstrates predictive validity and stability equivalent to that of the seven-item predictive device previously used by the commission. Of prime importance, the revised device holds promise for greater scoring reliability. In addition, SFS 81 appears compatible with what has been termed a "modified just desert" approach (von Hirsch and Hanrahan, 1979) in that it places primary weight on the extent and recency of the offender's criminal history.

### ACKNOWLEDGMENTS

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effort of the Office of Research, U.S. Bureau of Prisons, and the Research Unit of the U.S. Parole Commission, with the assistance of the Identification Section of the Federal Bureau of Investigation.

### NOTES

<sup>1</sup> These guidelines are codified 28 C.F.R. §2.20 (as amended). First established in a pilot project in October 1972, a mandate for use of a guideline system is now contained in *The Parole Commission and Reorganization Act of 1976*, specifically 18 U.S.C. §4206 (1976). For a description of guideline development and use, see Gottfredson, Wilkins, and Hoffman (1978), and Hoffman and Stover (1978).

<sup>2</sup> 28 C.F.R. §2.20 (46 Federal Register 132 [July 19, 1981] 35638).

<sup>3</sup> Sample I consists of a 50 percent sample of all prisoners receiving committed sentences of more than one year and one day who were released to the community during the first half of 1970, a 30 percent sample of such prisoners released during the second half of 1971, and a 25 percent sample of such prisoners released during the first half of 1972. Releases to detainees or deportation are excluded. Approximately 4 percent of the eligible sample was excluded due to missing background or follow-up records. For a more detailed description of sampling and data collection procedures, see Gottfredson, Wilkins, and Hoffman (1978). It is to be noted that one item in SFS 81 (commitment-free period) was not directly obtainable from the data originally coded in the 1970-71-72 sample. Thus, a surrogate item had to be used. Furthermore, for other items in both SFS 76 and SFS 81 the definitions originally used for coding the 1970-71-72 sample differed slightly from the definitions adopted by the commission for operational use. For the 1978 sample, operational definitions were available for use in coding; thus, the 1978 sample does not have this limitation.

<sup>4</sup> Sample II consists of a 50 percent sample of all prisoners receiving committed sentences of more than one year and one day who were released to the community during the first six months of 1978. Releases to detainees or deportation are excluded. Background or follow-up records for approximately 4 percent of the total remaining sample could not be located; these cases were excluded. Since a sizable proportion of prisoners released in 1978 were released to the community after a brief period (generally 60-120 days) in a Community Treatment Center (a halfway house), a type of custody that offers possibilities for misbehavior similar to those for prisoners on parole, Sample II includes the records of prisoners ( $N=161$ ) who were previously placed in a Community Treatment Center during the current period of confinement but were found guilty of misbehavior resulting in return to a secure facility. For purposes of providing a representative sample of releasees, these cases are counted twice, as though they constituted two separate releases: once to the Community Treatment Center, and once from the Community Treatment Center to the community.

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- <sup>5</sup> That is, selection of all cases ending in an odd digit produces a 50 percent sample. Federal prisoners have an eight-digit registration number. The last three digits refer to the institution. The fifth digit is the last digit of the individual's identification number.
- <sup>6</sup> One limitation of the use of FBI data with a commitment criterion measure is that not all state/local arrest or dispositional information is submitted to the FBI system. Nevertheless, this data set provides the best measure for assessing recidivism for federal offenders who are released throughout the United States, and may be released with or without parole supervision or have different lengths of supervision provided. There is no reason to expect that there is differential recording of individual instances of unfavorable outcome by salient factor score. Furthermore, where there is at least one instance of unfavorable outcome during the follow-up period recorded, a failure to record additional instance(s) does not affect the result. Data were collected at least 18 months after the end of the follow-up period to allow for dispositional information to be recorded. An additional limitation of the criterion measure concerns the classification of persons returned to prison for technical parole violations (without a commitment for a new offense). Since only persons released to parole or mandatory release supervision are liable for return to prison for technical violations, the classification of such cases as having unfavorable outcome means that persons released under supervision are subject to greater risk of being included in the unfavorable outcome category than persons released without supervision. If technical violators were classified as having favorable outcome, persons released with supervision would be subject to less risk of being classified as having unfavorable outcome than unsupervised releasees (since technical violators would be artificially removed from being "at risk"). For the purpose at hand, the first alternative appeared as the more desirable.
- <sup>7</sup> Overall, 7 percent of the cases in Sample I and 13 percent of the cases in Sample II with otherwise favorable outcome had one or more arrests with a pending/missing disposition. Classification of 50 percent of such cases in each score/category as having unfavorable outcome appears warranted for several reasons. First, previous efforts to obtain missing dispositional data for samples of federal releasees indicate an underlying unfavorable outcome rate near 50 percent. Second, this classification reduces the maximum possible bias in any score/category to one-half of the pending/missing rate in that category. In addition, it is to be noted that the predictive power of the devices (as measured by the Mean Cost Rating) is not significantly affected by classification or pending/missing dispositions as all favorable, all unfavorable, or partially favorable. Tables 1 and 2 display this information.
- <sup>8</sup> Elmer Burgess used this method in one of the earliest parole prediction studies (Burgess, 1928).
- <sup>9</sup> For two studies of reliability in guideline application, see Hoffman, Fife, and Stone-Meierhoefer (1980) and Hoffman, Stone-Meierhoefer, and Fife (1981).
- <sup>10</sup> It is also to be noted that the most reliable items to score are not necessarily the most predictive. For example, employment stability, a difficult item to score reliably, has shown considerable predictive power, whereas height, a much easier item to score reliably, would likely show no predictive power at all.
- <sup>11</sup> The revised device does not completely eliminate this overlap. For example, heroin/opiate dependence, while a negative indicant of parole prognosis, is in certain small-scale heroin sale cases treated as a mitigating circumstance on the offense severity scale.
- <sup>12</sup> In the Parole Commission guidelines, the seriousness of the offense is considered as a separate dimension.

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APPENDIX A  
SALIENT FACTOR SCORE (SFS 81)

- A. PRIOR CONVICTIONS/ADJUDICATIONS (ADULT OR JUVENILE) ☐
- None ..... = 3  
One ..... = 2  
Two or three = 1  
Four or more = 0
- B. PRIOR COMMITMENTS OF MORE THAN 30 DAYS (ADULT OR JUVENILE) ..... ☐
- None ..... = 2  
One or two ..... = 1  
Three or more .... = 0
- C. AGE AT CURRENT OFFENSE/PRIOR COMMITMENTS ..... ☐
- Age at commencement of the current offense:  
26 years of age or more . = 2\*\*\*  
20-25 years of age ..... = 1\*\*\*  
19 years of age or less .. = 0  
\*\*\*EXCEPTION: If five or more prior commitments of more than thirty days (adult or juvenile), place an x here \_\_\_\_\_ and score this item ..... = 0.
- D. RECENT COMMITMENT-FREE PERIOD (THREE YEARS) ..... ☐
- No prior commitment of more than thirty days (adult or juvenile), or released to the community from last such commitment at least three years prior to the commencement of the current offense ..... = 1  
Otherwise ..... = 0
- E. PROBATION/PAROLE/CONFINEMENT/ESCAPE STATUS VIOLATOR THIS TIME ..... ☐
- Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement, or escape status violator this time ..... = 1  
Otherwise ..... = 0
- F. HEROIN/OPIATE DEPENDENCE ..... ☐
- No history of heroin or opiate dependence = 1  
Otherwise ..... = 0
- TOTAL SCORE ..... ☐

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**APPENDIX B**  
**SALIENT FACTOR SCORE (SFS 76)**

Item A .....	<input type="checkbox"/>
No prior convictions (adult or juvenile)= 3	
One prior conviction ..... = 2	
Two or three convictions ..... = 1	
Four or more prior convictions ..... = 0	
Item B .....	<input type="checkbox"/>
No prior commitments (adult or juvenile)= 2	
One or two prior commitments ..... = 1	
Three or more prior commitments ..... = 0	
Item C .....	<input type="checkbox"/>
Age at behavior leading to first commitment (adult or juvenile):	
26 or older . = 2	
18-25 ..... = 1	
17 or younger = 0	
Item D .....	<input type="checkbox"/>
Commitment offense did not involve auto theft or check(s)	
(forgery/larceny) ..... = 1	
Commitment offense involved auto theft, or check(s), or both= 0	
Item E .....	<input type="checkbox"/>
Never had parole revoked or been committed for a new offense while on	
parole, and not a probation violator this time ..... = 1	
Has had parole revoked or been committed for a new offense while on	
parole, or is a probation violator this time, or both ..... = 0	
Item F .....	<input type="checkbox"/>
No history of heroin or opiate dependence= 1	
Otherwise ..... = 0	
Item G .....	<input type="checkbox"/>
Verified employment (or full-time school attendance) for a total of at least	
six months during the last two years in the community = 1	
Otherwise ..... = 0	
TOTAL SCORE .....	<input type="checkbox"/>

QUESTION:

What input, if any, do you anticipate that the Parole Commission will be permitted in the establishment of the sentencing guidelines by the new Sentencing Commission?

ANSWER:

Since the Chairman of the Parole Commission will serve as an ex-officio, non-voting member of the Sentencing Commission, we fully anticipate that the new Sentencing Commission will benefit from the accumulated knowledge and experience on guideline development and implementation that resides in the Parole Commission and its staff. Assistance of this nature has commenced already. Parole Commission staff have prepared, at the request of the Department of Justice, memoranda outlining a set of initial tasks facing the Sentencing Commission and have put together an extensive bibliography of reference materials critical to the Sentencing Commission's mission and activities.

QUESTION:

What is the procedure presently followed for an opportunity for victims to be heard at parole hearings?

ANSWER:

Following passage of the Victim Witness Protection Act of 1982, the Department of Justice established a comprehensive set of procedures for the treatment and participation of victims in the criminal justice process. With respect to parole, the law only required that the victim be notified in advance of the offender's release date. However, at the Commission's request, these regulations also included procedures for: (1) explaining the parole process to victims and (2) permitting victims to request notification in advance of the offender's parole hearing. The procedures further provide that a victim may submit information for consideration at the parole hearing, send a representative, or appear personally. Written submissions are encouraged rather than personal appearances, for the sake of minimizing the possibility of retaliation by the offender. The law permits confidential written submissions by victims who fear retaliation, although the law also requires that a brief summary of the substance of the submission be provided to the offender/parole applicant (without revealing the source of information). 18 U.S.C. Sec. 4208(c) (1976).

Even if the victim does not participate in the process, Rule 32, F.R. Crim. R., requires that presentence investigation reports provide the Court and the Commission with all pertinent information relating to the victim (the "Victim Impact Statement") which the author of the presentence report derives primarily from interviewing the victim about the consequences of the crime. The presentence report is the single most important document customarily relied upon by the Commission.

QUESTION:

What number of lawsuits were filed last year by prisoners and parolees against the Commission? Do you have statistics on their outcome?

ANSWER:

In 1984, approximately 740 lawsuits were filed against the Commission by prisoners and parolees. This shows a continuation of the increased number of suits filed against the Commission begun in 1983 when we had a one-third increase in suits filed over 1982. Part of the increase in litigation is comprised of a new series of lawsuits under the Freedom of Information Act and the Privacy Act which we have found particularly complex and time consuming. The Commission does not have statistics on the outcome of cases filed in 1984 since many of them are still pending in the courts.

QUESTION:

I noted in your justifications that the Commission's legal staff interacts with the State Department in exchanging prisoners with other countries. Does this mean that your Commission assumes primary responsibility for extraditions?

ANSWER:

No. Extradition is the process by which persons who are charged with crimes in the United States but are found in foreign countries are returned to this country to face prosecution. The prisoner exchanges referred to in our Summary Statement are transfers pursuant to treaties for the return of prisoners to their home countries after they have been convicted and sentenced for crimes in foreign countries. For example, an American citizen arrested, convicted, and serving a sentence for a crime committed in Canada could request to be transferred to the United States for completion of his sentence under the same provisions (including the possibility of parole) as if he had been sentenced by the courts of the United States.

Parole Commission attorneys in the past have provided assistance to the Justice Department's Office of International Affairs and to the State Department on the development of the treaties with Canada, Mexico, and Thailand on such transfers. However, the more significant ongoing work of the Commission's attorneys in this area is as liaison between the Office of International Affairs and the Commission in the implementation of existing treaties. This work includes preparing and updating the parole section of information booklets for prisoners considering transfer from various countries and providing information for periodic reports on the status of transferred prisoners.

QUESTION:

I noted also that your Case Operations Section coordinates the Witness Security Program. I have been concerned that, according to the Washington Post, 21 percent of the persons relocated with new identities under this program are arrested for serious crimes within two years after they join the program. The new crime law requires the Attorney General to determine whether the need for a person's testimony outweighs the risk of endangering people and property in the community where a witness is relocated, and bars relocation if the risk to the public outweighs the need for the person's testimony. What has been the procedure before this law was enacted? How were considerations of public safety weighed?

ANSWER:

The Parole Commission plays no role in the decision to place an individual in the Witness Protection Program, as this rests with the Attorney General. Of all those authorized for placement in the program, a certain number are subject to parole or mandatory release supervision following their release from confinement and accordingly fall under the jurisdiction of the Parole Commission.

The Commission developed a program to handle the supervision activities of these cases out of our Case Operations Section in our Central Office. These cases are closely supervised under special procedures to ensure a proper balance between the security protection needs of the releasee and the protection of society.

Public safety considerations have always been a primary concern of the Parole Commission in all cases under its jurisdiction, including those authorized by the Attorney General for placement in the Witness Protection Program. As a prerequisite to a grant of parole, the Commission must determine the release would not jeopardize the public welfare, i.e., that there is a reasonable probability that, if released, the prisoner would live and remain at liberty without violating the law or the conditions of his parole.

The new Crime Bill has provisions to have persons on probation or parole under State law supervised under Federal jurisdiction provided the state consents to such supervision. The Commission exercises the same powers and duties with respect to probationers and parolees transferred from state supervision as it does with respect to an offender convicted in a court of the United States.

QUESTION:

In your justifications you note that parolees are handled by the U.S. Probation Office under the U.S. Courts. Yet one of your stated major objectives is "to provide forceful supervision for released parolees". What are your separate responsibilities and how are they coordinated?

ANSWER:

Basically, as to the supervision of parolees, the U.S. Parole Commission develops the policies, rules and procedures and U.S. Probation Officers, acting as our parole agents, implement those policies and procedures as they manage a caseload of parolees. We have a rules and procedures manual to guide this activity, a document prepared and revised with the assistance of and with input from probation officers.

We can particularize the conditions of supervision to meet the needs and requirements of offenders. For example, all parolees with a history of drug use receive a special condition that they participate in a drug aftercare program. Further, we can require that parolees work with probation officers to develop installment plans for the payment of fines and restitution orders.

Many of the mechanisms and procedures contained in our manual have served as models for similar devices and rules used by the probation service in their supervision of probationers.

QUESTION:

The new crime law gives a judge authority, when imposing a sentence, to order supervision of a defendant after his prison term ends. Will your Commission bear the responsibility for this supervision?

ANSWER:

No, under the Act, the Parole Commission will not be responsible for prisoners who are sentenced to serve a term of supervised release after incarceration. The term of supervised release will be very similar to a term of probation -- the courts will supervise these releasees through their probation, however, violations of supervised release will not be handled by a revocation proceeding. Rather, contempt of court [pursuant to 18 U.S.C. Sec. 401(3)] will be used as the sanction.

In this regard the new Act's provisions for supervised release require some close scrutiny. The Commission has carefully reviewed this portion of the new law and has prepared a brief summary of the problems therein and changes that might be made to strengthen the legislation. Attached is a copy of the a position paper prepared by Commissioner Baer for your information.



POSITION PAPER ON POST-RELEASE SUPERVISION

BENJAMIN F. BAER  
Chairman  
U.S. Parole Commission

The recently passed sentencing reforms of the Comprehensive Crime Control Act of 1984 include many needed and long overdue provisions. Particularly important is the establishment of sentencing guidelines to reduce sentencing disparity and to provide guidance to judges in making sentencing decisions. The U.S. Parole Commission has long supported the need for sentencing guidelines and I have testified before Congress in support of such guidelines as recently as last year.

However, there is one particular area in which the new legislation needs to be strengthened and that is the provisions relating to post-release supervision. In my view, many, if not most, offenders require a period of close supervision after release from prison. This is needed both to protect the community and to aid the offender in his transition back to society.

A report by the Bureau of Justice Statistics entitled Returning to Prison (U.S. Department of Justice: November, 1984) states that recidivism occurs "at least up to 5 years after release" and suggests the need for maximum post release correctional support during the periods of highest risk. Further, substance abusers present even greater risks to the community. A report by the National Institute of Justice (Probing the Links

Between Drugs and Crime, U.S. Department of Justice: November, 1984) indicates that the majority of the most serious offenders ("violent predators") have histories of heroin use, often in combination with other drugs, and that drug abuse is one of the best predictors of serious career criminality. For example, the report cites a study in Miami which showed that heroin abusers averaged 375 offenses per addict per year. 1/

Along the same line, testimony by Senator Paula Hawkins and Senator Alfonse D'Amato (Impact of Drugs on Crime, 1984, Subcommittee on Alcoholism and Drug Abuse, U.S. Senate: May 10, 1984) underlines the relationship between drug abuse and crime. Senator Hawkins cites data showing that drug addicts in California average 177 property crimes per year, addicts in Michigan average 103 property crimes per year, and in Texas addicts average 190 crimes per year. Senator D'Amato cites a long term study of 237 heroin addicts which showed that this relatively small number of individuals committed over 500,000 crimes over an 11-year period. 2/ The special parole terms, contained in the Comprehensive Drug Abuse and Control Act of 1970, were created with those kinds of statistics in mind. Special parole terms, however, are abolished under the new law.

If post-release supervision is accepted as a necessary protection for the safety of the community, particularly for drug and alcohol abusers, the Comprehensive Crime Control Act of 1984 is, I feel, seriously flawed. The new legislation does not provide sufficient periods of post-release supervision nor does it

create adequate sanctions to permit supervision periods to serve as a deterrent to misconduct. Under the new law, the court may impose a term of supervised release after imprisonment for only one, two, or three years depending on the felony class. Thus, periods of supervision for many of the most serious cases will be shorter than those that can be imposed under current law. Recent recidivism studies have disproven the theory that the large majority of violations of supervision occur in the first year. 3/ Severely limiting the periods of post-release supervision for serious offenders sentenced to prison appears inconsistent with the need to protect the public. Limiting the period of supervision also makes enforcement of restitution and fine orders more difficult.

Equally important as the length of the period of supervision is the need to provide an adequate sanction to enforce the conditions of supervision. Under the new legislation, violations of the conditions of supervision must be treated as a contempt of court pursuant to 18 U.S.C. Sec. 401(3). This procedure is cumbersome, taxes the limited resources of the courts, and makes revocation much more difficult than under present procedures. If the term of imprisonment is to exceed six months, an offender charged with contempt of court is entitled to the protections afforded an ordinary criminal case, including the right to a trial by jury. This, too, will make it more difficult and time consuming to revoke supervision, particularly in the case of violations such as drug or alcohol abuse. The inefficiencies of applying contempt of court procedures as a means of revoking post-

release supervision have been pointed out by Judge Gerald Tjoflat, U.S. Circuit Court of Appeals. 4/

Nowhere is the need to increase the terms of supervision more apparent and the inappropriateness of the contempt proceedings better demonstrated than when one looks at probation under the new law. 18 U.S.C. Sec. 3561(b) authorizes up to a five year term of probation supervision for both felonies and misdemeanors. Probation is imposed for less serious offenses and less violent offenders, but the Act provides more supervision in the community for probationers than it does for the more dangerous individuals coming back into society after a period of incarceration. Moreover, under Sec. 3465, probation may be revoked after a simple Rule 32.1 hearing. Thus, it is easier to impose a sanction on the less serious offender and more difficult to punish those who present the greater threat to society.

It would appear that the interests of society would be best served by supervising all offenders coming out of prison for a sufficient period to insure that they no longer pose a threat to the public and to facilitate that end by establishing adequate sanctions to insure that the conditions of supervision are being followed. Under the present system, the U.S. Parole Commission is in a position to supervise and expeditiously return an offender to prison. This is particularly important in the case of offenders who have returned to the use of illegal drugs or the abuse of alcohol. Presently, the Parole Commission can revoke parole and reincarcerate the offender at the earliest indications of drug

abuse (e.g., submission of "dirty" urines or refusal to submit a urine sample) before he or she becomes heavily involved in new criminal conduct. The Commission so acts for between 800 and 850 individuals per year for technical violations of parole. These individuals have not been convicted of new crimes, but many have reverted to the use of drugs. By intervening early, however, the Commission can remove drug abusers from the streets before the drug habit reaches the point that it can only be supported through criminal activity. This vital protection for the public is being seriously weakened in the new legislation.

The new crime legislation raises a number of issues concerning post-release supervision which need to be discussed thoughtfully and thoroughly with an eye towards what is in the best interests of the public. I hope the ideas presented in this paper will help promote that discussion.

March, 1985

#### FOOTNOTES

1. J.A. Inciardi, "Heroin Use and Street Crime," Crime and Delinquency, 1979, 25.
2. J.C. Ball, J.W. Shaffer, and D.N. Nurco, "Day to Day Criminality of Heroin Addicts in Baltimore - A Study in the Continuity of Offense Rates," Drug and Alcohol Dependence, 1983, 12.
3. See, for example, P.B. Hoffman and B. Stone-Meierhoefer, "Post Release Arrest Experiences of Federal Prisoners: A Six-Year Follow-Up," Journal of Criminal Justice, 1979, 7; H. Kitcheener, A.K. Schmidt, and D. Glaser, "How Persistent is Post-Prison Success," Federal Probation, 1977, 41.
4. Presentation at the Sentencing Institute for the First, Third and D.C. Circuits, May 1, 1984.

**TUESDAY, MARCH 19, 1985.**

**FEDERAL PRISON SYSTEM**

**WITNESSES**

**NORMAN A. CARLSON, DIRECTOR**

**WADE B. HOUK, ASSISTANT DIRECTOR FOR ADMINISTRATION**

**GERALD M. FARKAS, ASSOCIATE COMMISSIONER, FEDERAL PRISON INDUSTRIES, INC.**

**RAYMOND C. BROWN, DIRECTOR, NATIONAL INSTITUTE OF CORRECTIONS**

**LUMAN N. RENSCH, JR., CHIEF, OFFICE OF BUDGET DEVELOPMENT**

**DAVID J. SWEDA, BUDGET OFFICER, OFFICE OF BUDGET DEVELOPMENT**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**CHARLES R. NEILL, COMPTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

Mr. EARLY. We shall next consider the 1986 budget request for the Federal Prison System. The request for the three appropriation items totals \$606,067,000, a decrease of \$16,014,000 below the appropriations for fiscal year 1985. The amounts requested for fiscal year 1986 for the individual appropriation items are as follows: Salaries and expenses, \$546,884,000; Building and Facilities, \$46,063,000; and the National Institute of Corrections, \$13,120,000.

We shall also consider today the request for a fiscal year 1985 program supplemental totaling \$900,000.

We shall insert at this point in the record the material submitted in support of the fiscal year 1986 budget request.

Federal Prison System

Proposed Authorization Language

The Federal Prison System is requesting the following authorization language:

Annual Legislation Proposal

For the Federal Prison System: \$66,067,000

Permanent Legislative Proposal

The Bureau of Prisons is authorized to make payments from its appropriations for:

- (A) for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions and for inmate legal services within the system;
  - (B) purchase and hire of law enforcement and passenger motor vehicles;
  - (C) compilation of statistics relating to prisoners in Federal penal and correctional institutions;
  - (D) purchase of firearms and ammunition and medals and other awards;
  - (E) payment of rewards;
  - (F) purchase and exchange of farm products and livestock;
  - (G) construction of buildings at prison camps and acquisition of land as authorized by section 4010 of title 18 of the United States Code;
  - (H) entering into contracts with governmental or private organizations or entities for the safekeeping, care and subsistence of persons held under any legal authority;
  - (I) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended, and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this clause; and
- Federal Prison Industries, Incorporated, is authorized to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles.

Federal Prison System

Priority Rankings

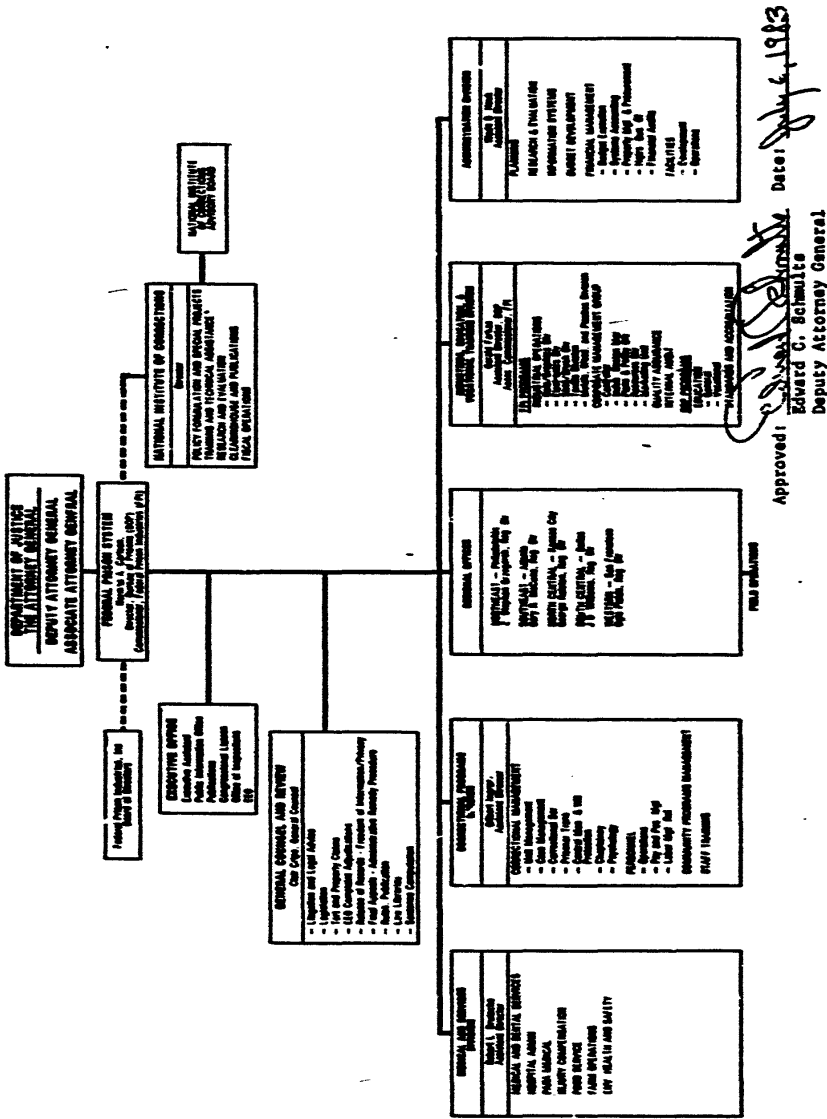
<u>Base Program</u>		<u>Program Increase</u>	
<u>Program</u>	<u>Ranking</u>	<u>Program</u>	<u>Ranking</u>
Inmate Care	1	Inmate Care	1
Institution Security	2	Institution Security	2
Institution Administration	3	Institution Administration	3
Institution Maintenance	4	Institution Maintenance	4
Modernization and Repair of Existing Facilities	5	Modernization and Repair of Existing Facilities	5
Contract Community Treatment Centers	6	Facilities	6
Contract Confinement in State and Local Institutions	7	Unit Management	7
Community Programs Management	8	Federal Prison Industries	8
Federal Prison Industries, Inc.	9	Other Inmate Services (non-appropriated)	9
Unit Management	10	Inmate Programs	10
Inmate Programs	11	Staff Training	10
Executive Direction	12		
Administrative Services	13		
Other Inmate Services (Non-appropriated)	14		
Staff Training	15		
Planning and Site Acquisition	16		
National Institute of Corrections	17		
New Construction	18		



Department of Justice  
Federal Prison System  
Salaries and expenses  
Estimates for Fiscal Year 1986  
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# FEDERAL PRISON SYSTEM



Approved: *[Signature]*  
Edward C. Schulte  
Deputy Attorney General

Date: July 4, 1983

Federal Prison System  
Salaries and expenses  
Summary Statement  
Fiscal Year 1986

The Federal Prison System is requesting for "Salaries and expenses" for 1986, a total of \$346,884,000, 10,826 permanent positions and 10,548 workyears. This request represents an increase of 385 positions, 679 workyears, and \$23,932,000 from the 1985 appropriation anticipated.

The mission of the Federal Prison System is to carry out the judgments of the courts for sentenced Federal offenders, provide detention services for persons serving short sentences, provide for humane incarceration of offenders and encourage offenders to participate in programs and activities that can impact positively on their capability for achieving a crime-free life. The Federal Prison System philosophy recognizes that incarceration, retribution, deterrence and rehabilitation are all valid aims of corrections.

Currently, the Federal Prison System maintains and operates nationwide 43 penal institutions, 5 regional offices, 3 staff training centers, 1 central office and contracts with over 500 state and local correctional institutions, 75 juvenile facilities and 280 community treatment centers. In addition, FPS will fully activate three additional facilities during 1985, two Federal Correctional Institutions one at Lorain, PA and another at Phoenix, AZ and a Medical/Psychiatric facility at Rochester, NH. (Following the Summary Statement is a geographical display of the Federal Prison System by region.)

Since January 1981, the Federal inmate population has increased by 37 percent from 23,783 to 32,580 today. The current inmate population is housed in facilities with a rated capacity of 24,920 resulting in an overcrowding rate of 31 percent. For 1986, the Federal Prison System projects an average daily population of 33,790. Federal prisons are projected to be overcrowded by at least 18 percent.

The appropriation "Salaries and expenses" contains four budget activities which incorporate twelve programs. The budget activities are: Inmate Care, Custody and Programs, Institution Administration and Maintenance, Contract Confinement and Program Direction.

Inmate Care, Custody and Programs

This activity includes the costs of all food; medical care (including salaries of Health Resources and Services Administration commissioned officers); clothing; welfare services; security; release clothing, transportation and gratuities; housing unit furnishings; academic, social and occupational educational courses; leisure time programs; and religious and psychology services, and staff salaries. To carry out its mission in this activity, the Federal Prison System conducts the following programs:

The Inmate Care program includes the responsibilities for providing Federal inmates with a nutritionally adequate, palatable diet; the conduct of farm operations at three institutions for the production of beef and milk; providing adequate, accessible and quality health care for each incarcerated offender; and providing all inmates with an adequate supply of clean clothing, footwear, linens, toiletries and writing supplies. In addition, this program includes the costs of the clothing/laundry and commissary trust fund operations. In 1986, the following increases are requested: 55 positions, 30 workyears and \$3,683,000 required to cover the Inmate Care costs associated with the 1986 scheduled activation/operation of the Oakdale Alien Detention Center and new housing units at 8 existing institutions; \$2,000,000 to increase the use of and cover the increased costs of medical, surgical, and other medical services through contracts with community resources; and \$571,000 to purchase food, medical, clothing, etc. supplies and contract services for an estimated 367 additional inmates in 1986. For 1986, the Federal Prison System (FPS) projects an average daily population of 33,790.

The Institution Security program consists of the correctional staff whose responsibility is to maintain security, control and supervision consistent with human dignity. In 1986, FPS is requesting 169 positions, 162 workyears, and \$4,223,000 to provide for an institution security program at the Oakdale Alien Detention Center and to expand the institution security program at ten existing institutions as a result of activating new housing units at those institutions during 1986. The request also includes an increase of \$38,000 associated with the projected population increase of 367.

The Unit Management program is a system of inmate management that decentralizes an institution by breaking the population down into groups of 50 to 150 offenders. It provides administration, case management services, counseling services, drug/alcohol treatment programs and other needed services to the smaller groups. In 1986, the proposed increase for this program includes 38 positions, 44 workyears, and \$2,710,000 to provide case management services for the Oakdale Alien Detention Center and to expand unit management resources at ten existing institutions to provide coverage for the new housing units scheduled for opening in 1986. Also included is a request for \$41,000 to provide for increased supplies and contract services associated with the projected population increase.

Inmate Programs offer the inmates opportunities to develop or enhance their academic and vocational skills, to involve themselves in constructive leisure-time activity, to participate in religious programs of their choice and to receive individual or group counseling to deal with mental health problems. All programs are designed to strengthen offenders' abilities to cope with social, economic and related free world problems. In 1986, an increase of 30 positions, 26 workyears and \$1,185,000 is requested to establish these programs at the Oakdale Alien Detention Center and to expand inmate program resources at six existing institutions for which new housing units will be opened in fiscal year 1986. In addition, an increase of \$77,000 is requested to cover the increased costs of supplies and contract services resulting from the projected 367 increase in inmate population.

#### Institution Administration and Maintenance

This activity covers all costs associated with the general administration, operation and maintenance of facilities. Included are functions of the warden's office, legal counsel, personnel, financial management, records office, safety, staff training, mechanical services, motor pool operations, power house operations, and other administrative functions.

Institution Administration finances the costs of the institutions' executive staff (warden and staff), legal counsel, personnel and financial management, administrative systems and safety programs. In 1986, the request includes increases of 58 positions, 54 workyears, and \$3,592,000 to provide for an institution administration program at the Oakdale Alien Detention Center and to expand the institution administration programs at seven existing institutions as a result of activating new housing units.

The Staff Training program provides training to all staff in all spheres of corrections. It assures that the latest policies, procedures and correctional techniques are communicated to staff. Staff training consists of programs in each institution, training at the three Federal Prison System staff training centers, and external training through contracts. In 1986, the request includes increases of 1 position, 1 workyear, and \$164,000 to partially train the new personnel requested in 1986.

The Institution Maintenance program finances the costs of repairs and maintenance to buildings and facilities, purchase of utility systems and steam power plants, telecommunications and transportation services. Services are provided through the direction of the technical facilities management staff. This request includes increases of 14 positions, 13 workyears, and \$1,760,000 to provide for an institution maintenance program at the Oakdale Alien Detention Center and to expand the program at ten existing institutions as a result of activating new housing units at those institutions and \$82,000 for additional maintenance costs associated with the projected increase in inmate population.

#### Contract Confinement

This activity finances the costs of care of Federal offenders in contract community residential facilities and of confining sentenced offenders in contract state and local facilities. It also finances the contract development and monitoring activities of Federal Prison System community programs managers.

The Community Programs Management program finances efforts for developing and managing resources for the confinement of offenders in non-Federal facilities including state and local correctional institutions, juvenile facilities, local detention facilities (jails) and community-based facilities, and for providing liaison between the Federal Prison System, the U.S. Marshals Service, U.S. Probation Service, U.S. Parole Commission, Federal Courts, and state and local law enforcement officials. In 1986, this program will operate at the base level.

The program for Contract Confinement in State and Local Institutions finances efforts for contracting for space with appropriate non-Federal agencies to board certain types of Federal offenders, such as juveniles, offenders with short sentences and protection cases. The Bureau is responsible for ensuring that these facilities meet Bureau standards and that inmates housed in these facilities receive adequate services. No increase for 1986 is requested.

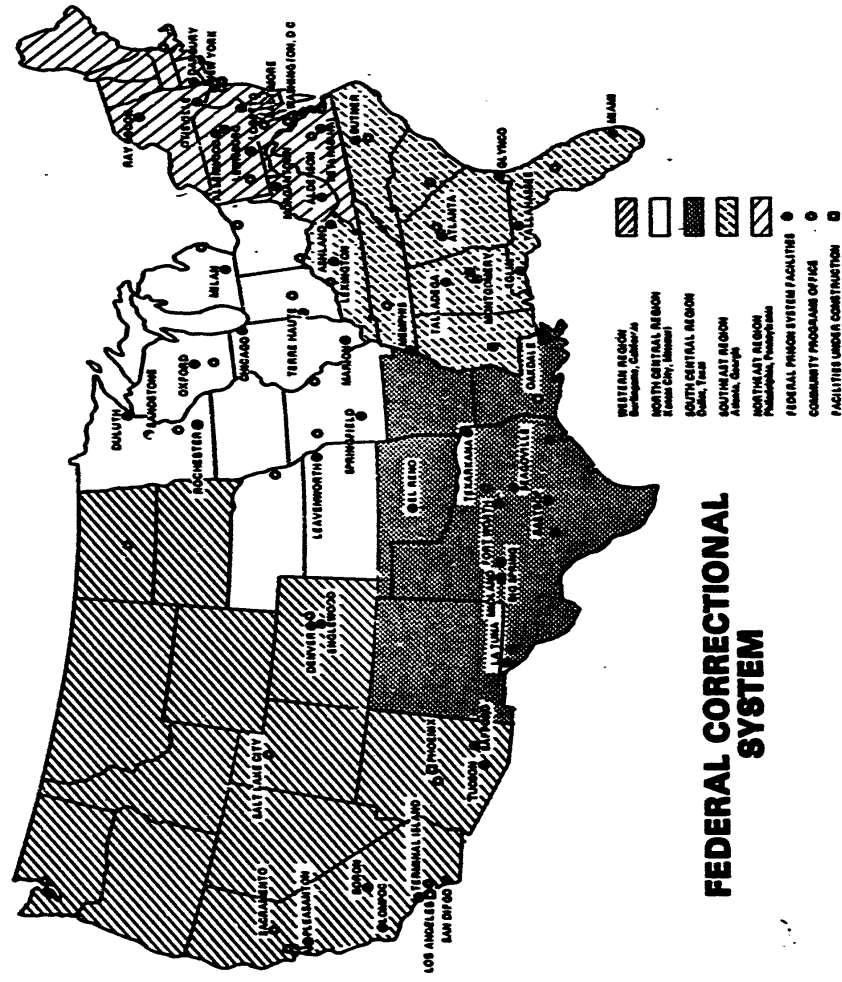
Contract Community Treatment Centers (CCTC's) provide for all community-based correctional programs. The Federal Prison System contracts with State, local and private agencies to provide residential resources for institution releasees, direct commitments and persons requiring closer supervision than can be provided by U.S. Probation Officers. In 1986, a decrease of \$2,000,000 is requested. Remaining resources are sufficient to maintain the program objective of providing community based correctional programs for an average daily population of 723.

#### Program Direction

This activity covers the costs of regional and central office executive direction and management support functions such as the executive staff, regional and central office program managers, research and evaluation, program analysis, budget development, policy development and implementation, system support, financial management, personnel, ADP, space management, and legal services.

Executive Direction and Control provides the resources for overall policy and program development, implementation, direction and evaluation to assure the effective conduct of the Federal Prison System's business. In addition, resources are included to provide the Federal Prison System and the Federal Prison Industries, Inc. with adequate legal counsel. In 1986, the request includes a decrease of \$250,000 for legal services to inmates. Also included is a decrease of \$275,000 associated with a ten percent reduction in administrative expenses.

The Administrative Services program finances the central and regional office functions of personnel management; maintenance of equal employment opportunity; medical services; financial management, including procurement and property management; and ADP services, records management, mail, printing, reproduction, and space management. In 1986, a decrease of \$1,045,000 is requested to reduce administrative expenses by ten percent.



# FEDERAL CORRECTIONAL SYSTEM

Federal Prison SystemSalaries and expensesJustification of Proposed Changes to the Appropriation Language

The 1986 budget estimates include proposed changes in appropriation language listed and explained below. New language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchases (not to exceed [forty of which thirty] are for replacement only) and hire of law enforcement and passenger motor vehicles; [850,450,000] (and in addition, \$4,450,000 shall be derived by transfer from the unobligated balances of the "Buildings and Facilities" account); Provided, that there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions. (18 U.S.C. 3050, 3059, 3651, 4001, 4002, 4007, 4008, 4011, 4041, 4042, 4081, 4082, 4233, 4281, 5015; Department of Justice and Balanced Budgets Appropriation Act, 1985) additional authorizing legislation to be proposed. one hundred nine of which ninety-four

\$546,886,000

Explanation of Changes:

The Federal Prison System's current motor vehicle fleet of 619 includes 94 vehicles that will be overage and require replacement by 1986 (using Federal Property Management Regulations replacement criteria). In addition, fifteen new vehicles are required for new facilities.

Language pertaining to the \$4,450,000 derived by transfer from the unobligated balances of the "Buildings and Facilities" account is not required in 1986.



**Federal Prison System**  
**Salaries and expenses**  
**Crosswalk of 1964 Changes**  
**(DOLLARS IN THOUSANDS)**

Activity/Program	1985 President's Budget Request				Congressional Appropriation Actions on 1985 Request				Unobligated Funds Available from the 1984 Supplemental				Repro-gramming		1985 Supplementals Requested		1985 Proposed Reallocations		1985 Appropriation Anticipated			
	Pos.		Ant.		Pos.		Ant.		Pos.		Ant.		Pos.		Program		Pos.		Ant.			
	78	80	78	80	78	80	78	80	78	80	78	80	78	80	78	80	78	80	78	80		
1. Inmate Care, Custody and Programs:																						
a. Inmate Care.....	1,579	1,507	\$110,470	...	...	-84,287	\$2,232	...	\$2,171	\$1,292	...	...	...	...	...	\$2,171	\$1,292	...	1,579	1,507	\$111,098	
b. Institution Security.....	4,231	3,908	107,984	150	113	2,740	188	...	...	...	...	...	...	...	...	161	2,374	...	4,381	4,021	113,427	
c. Unit management.....	1,202	1,126	41,077	...	...	-348	195	-996	...	...	...	...	...	...	...	...	814	40,902	...	1,202	1,126	40,902
d. Inmate programs.....	617	593	28,124	...	...	-251	104	-586	...	...	...	...	...	...	...	300	476	...	617	593	28,753	
Subtotal.....	7,629	7,134	287,655	150	113	-2,166	2,739	-586	...	...	...	...	...	...	...	2,772	4,156	...	7,799	7,347	295,980	
2. Institution Administration and Maintenance:																						
a. Institution administration..	1,277	1,237	65,061	...	...	-353	492	...	...	...	...	...	...	...	...	...	930	-4150	...	1,277	1,237	65,980
b. Staff training.....	63	67	6,400	...	...	-18	16	996	...	...	...	...	...	...	...	...	68	-201	...	63	67	7,261
c. Institution maintenance.....	841	794	70,886	...	...	-789	1,808	...	...	...	...	...	...	...	...	311	699	...	841	794	72,915	
Subtotal.....	2,181	2,098	142,347	...	...	-1,160	2,316	996	...	...	...	...	...	...	...	311	1,697	-331	2,181	2,098	146,156	
3. Contract Confinement:																						
a. Community programs management.....	71	78	3,972	...	...	-96	...	-747	...	...	...	...	...	...	...	...	59	-10	...	71	78	3,176
b. Contract state and local institutions.....	...	...	19,169	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	19,169
c. Contract community treatment centers.....	...	...	29,113	...	...	2,500	...	-747	...	...	...	...	...	...	...	...	...	...	...	...	...	31,613
Subtotal.....	71	78	52,254	...	...	2,402	...	-747	...	...	...	...	...	...	...	...	59	-10	...	71	78	53,958
4. Program Direction:																						
a. Executive direction and control.....	225	249	10,890	...	...	250	...	...	...	...	...	...	...	...	...	...	283	-38	...	225	249	11,343
b. Administrative services.....	185	197	17,616	...	...	-2,168	...	747	...	...	...	...	...	...	...	...	350	-32	...	185	197	16,681
Subtotal.....	410	446	28,506	...	...	-1,918	...	747	...	...	...	...	...	...	...	...	633	-70	...	410	446	27,868
Total.....	10,291	9,756	310,722	150	113	-2,822	5,055	...	3,083	7,345	-431	10,441	9,869	322,932	...	...	...	...	...	...	...	...

Crosswalk of 1985 Changes (cont.)  
(Dollars in thousands)

Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Actions

The Congress provided the resources requested in an 1985 amendment to activate and operate the recently acquired Rochester and Loretto facilities. However, because of limitations on total budget authority in the 1985 bill and the urgent need for these facilities, \$4,450,000 of the Loretto requirements were funded by transfer of unobligated balances from the "Buildings and Facilities" appropriation and \$6,000,000 of the Rochester requirements were funded from the Second Supplemental Appropriation Act, 1984. The Congress also added 150 positions and \$3,000,000 to improve institution security, \$2,500,000 for contract community treatment centers and \$250,000 for legal services to inmates. In addition, \$1,759,000 requested for SENTRY and other automated systems and \$507,000 requested for standard level user charges were disallowed.

Explanation of Unobligated Funds Available from the 1984 Supplemental

The 1984 Supplemental provided \$8.5 million for the purchase of equipment for the newly acquired Rochester and Loretto facilities. Of that amount \$5,055,000 remains available for obligation through September 30, 1985.

Reprogramming

During July 1984, the Federal Prison System determined the need to accomplish certain reprogramming actions from the program and budget activity estimates for 1984. The major thrust of this reprogramming is to adjust the 1985 estimates for the impact of the July 1984 reprogramming.

Supplementals Requested

1. Supplemental funding is requested to support an average daily population of 32,930 (1,397 over the previous projection).
2. The pay request provides \$7,345,000 to meet increased pay requirements. (Executive Order 12496 dated December 28, 1984.)

Proposed Rescission

In accordance with Section 2901 of the Deficit Reduction Act, \$451,000 is proposed for rescissions in the travel and transportation, printing and reproduction and other services areas.

## Federal Prison System

## Salaries and Expenses

Summary of Requirements  
(Dollars in thousands)

	Perm.	Tot.	Amount
	Pos.	FTE	
Adjustments to base:			
1985 as enacted.....	10,441	9,869	\$503,450
1985 funding provided in 1984 supplemental.....	...	...	5,085
Transfer from Buildings and Facilities.....	...	...	4,450
Supplemental requested:			
1985 Pay supplemental requested.....	...	...	7,345
1985 Program supplementals requested.....	...	...	3,083
Proposed rescission.....	...	...	-451
1985 appropriation anticipated.....	10,441	9,869	\$22,332
Savings resulting from management initiatives.....	...	...	-9,096
Uncontrollable increases.....	...	329	28,160
Decreases (automatic non-policy).....	...	...	-11,668
1986 base.....	10,441	10,198	\$30,328

	1984 Actuals				1985 Appropriation				1986 Estimate				Increase/Decrease						
	Perm.		Tot.		Perm.		Tot.		Perm.		Tot.		Perm.		Tot.				
	Pos.	FTE	Amount		Pos.	FTE	Amount		Pos.	FTE	Amount		Pos.	FTE	Amount				
Estimates by budget activity																			
1. Inmate care, custody and programs.....	6,964		6,492	\$248,158	7,779		7,247	\$294,980	7,779		7,534	\$299,348	8,091		7,816	\$313,876	312	282	\$14,528
2. Institution administration and maintenance.....	2,085		2,007	127,713	2,181		2,098	146,156	2,181		2,140	147,282	2,254		2,208	152,880	73	68	5,998
3. Contract Confinement.....	71		81	39,550	71		78	53,958	71		78	55,304	71		78	53,304	...	...	-2,000
4. Program direction.....	412		461	26,253	410		446	27,838	410		446	28,394	410		446	26,824	...	...	-1,570
Total.....	9,532		9,061	441,674	10,441		9,869	\$22,932	10,441		10,198	\$30,328	10,835		10,538	\$45,881	385	350	16,532

Federal Prison System  
Salaries and Expenses  
Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1984 Budget			1984 Actuals			1985 Appropriation			Base for 1986			1986 Estimate			Increase/Decrease		
	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount
Inmate care, custody and programs:																		
Inmate care.....	1,355	1,285	694,890	1,355	1,104	691,839	1,579	1,507	611,698	1,579	1,571	611,690	1,634	1,621	612,144	55	50	6,254
Institution																		
security.....	3,914	3,715	98,828	3,914	3,752	98,605	4,381	4,021	113,427	4,381	4,190	116,030	4,550	4,352	120,291	169	162	4,261
Unit management....	1,119	1,034	34,703	1,119	1,029	34,321	1,202	1,126	40,402	1,202	1,156	40,311	1,260	1,202	43,062	58	44	2,751
Inmate programs....	576	520	26,234	576	530	23,393	617	593	28,753	617	615	29,317	641	641	30,379	24	26	1,262
Subtotal.....	5,965	5,535	232,855	5,965	5,495	238,158	7,779	7,267	284,980	7,779	7,354	295,348	8,791	7,816	313,876	312	282	14,598
Institution administration and maintenance:																		
Institution																		
administration....	1,209	1,162	57,422	1,209	1,197	56,948	1,277	1,237	65,980	1,277	1,265	65,698	1,335	1,319	69,290	58	54	3,592
Staff training.....	66	69	7,235	66	70	7,169	63	67	7,261	63	67	7,602	64	66	7,766	1	1	164
Institution																		
maintenance.....	810	752	64,327	810	740	63,596	841	794	72,915	841	808	73,982	855	821	75,824	14	13	1,842
Subtotal.....	2,085	1,983	129,184	2,085	2,007	127,713	2,181	2,098	146,156	2,181	2,140	147,282	2,254	2,208	152,880	73	68	5,596
Contract confinement:																		
Community program management.....	71	79	2,988	71	81	2,915	71	78	3,176	71	78	3,195	71	78	3,195	...	...	...
Contract State and local institutions.	...	...	11,437	...	...	11,473	...	...	19,169	...	...	19,908	...	...	19,908	...	...	...
Contract CFC's.....	...	...	25,200	...	...	25,162	...	...	31,613	...	...	32,201	...	...	30,201	...	...	-2,000
Subtotal.....	71	79	39,625	71	81	39,550	71	78	53,958	71	78	55,394	71	78	53,394	...	...	-2,000
Program direction:																		
Executive direction..	223	242	10,605	223	260	10,604	225	249	11,345	225	249	11,432	225	249	10,907	...	...	-525
Administrative																		
Services.....	189	194	15,481	189	201	15,649	185	197	16,493	185	197	16,982	185	197	15,917	...	...	-1,045
Subtotal.....	412	436	26,086	412	461	26,253	410	446	27,838	410	446	28,394	410	446	26,824	...	...	-1,570
Total.....	9,532	9,092	447,550	9,532	9,044	441,674	10,441	9,869	522,932	10,441	10,198	530,328	10,828	10,548	546,884	385	350	16,556

Federal Prison System  
Salaries and Expenses  
Summary of Resources by Program (cont.)  
(dollars in thousands)

Estimates by Program	1984 Enacted			1984 Actuals			1985 Appropriation			Base for 1986			1986 Estimate			Increase/Decrease		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Other Workyears:																		
Holiday.....		183			152			204			210			217			7	
Overtime.....		159			341			235			245			258			13	
Total compensable																		
workyears.....		9,405			9,534			10,308			10,653			11,023			370	
Reimbursable workyears.		127			127			127			127			127			...	
Total FTS Callings.....		9,532			9,661			10,435			10,780			11,150			370	

Federal Prison System

Salaries and expenses

Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity: Inmate Care, Custody and Programs	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.			Pos.			Pos.			Pos.		
	WY	WY	Amount	WY	WY	Amount	WY	WY	Amount	WY	WY	Amount
Inmate Care.....	1,579	1,507	\$111,898	1,579	1,571	\$113,880	1,634	1,621	\$120,144	55	50	\$6,254
Institution Security.....	4,381	4,021	113,427	4,381	4,190	116,000	4,550	4,352	120,291	169	162	4,261
Unit Management.....	1,202	1,126	40,902	1,202	1,158	40,311	1,260	1,202	43,062	58	44	2,751
Inmate Programs.....	617	593	28,733	617	615	29,117	647	641	30,378	30	26	1,262
Total.....	7,779	7,227	\$28,980	7,779	7,534	\$99,348	8,081	7,816	\$133,876	312	282	\$14,568

This budget activity includes the cost of all food; medical care; clothing; linen; security; welfare services; release clothing, transportation and gratuities; housing unit furnishings; academic; social and occupational education courses; leisure time programs; and religious and psychology services. Also included are the salaries and other expenses of health resources and Services Administration commissioned officers stationed in WPS facilities.

Inmate Care.....	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.			Pos.			Pos.			Pos.		
	WY	WY	Amount	WY	WY	Amount	WY	WY	Amount	WY	WY	Amount
Inmate Care.....	1,579	1,507	\$111,898	1,579	1,571	\$113,880	1,634	1,621	\$120,144	55	50	\$6,254

Long-Range Goal: To provide offenders incarcerated in the Federal Prison System with a nutritional diet; comprehensive, accessible high-quality health care services; clean clothing, footwear, linen, toiletries and stationery; and to properly manage the Inmate Trust Fund.

#### Major Objectives:

- Continues providing three nutritional meals daily including provisions for medical and religious diets.
- Continues cost-effective farm operations to supplement food purchased from local sources.
- Maximize the use of surplus foods from the Commodity Credit Corporation.
- Professionally analyze food service programs for nutritional adequacy.
- Continues to provide current level health care services in all institutions, which include promotion of good health practices, prevention of diseases and disability, inpatient and outpatient treatment, medical rehabilitation services and health education.
- Continues to provide 24-hour or 16-hour (camps require 16-hour coverage) medical coverage, as appropriate.
- Meet and/or maintain other medical accreditation requirements in all institutions.
- Acquire an adequate supply of clothing, footwear, linens, toiletries and stationery items for distribution to the inmate population.
- Maintain laundry and clothing issue/return operations.
- Maintain the Inmate Trust Fund.
- Basic Program Description:** Institution food menus are prepared on a 35-day cycle, balanced for variety and adequate nutrition. The basis for the menu is the "standard ration" which consists of appropriate levels of the fifteen major food categories including beef, pork, and other meats; fats; starches; milk and cheese; eggs; sweeten; beverages; potatoes and other roots; leafy green and yellow vegetables; tomatoes; dried beans; peas or nuts; fruit; canned and dried fruits; and adjuncts. Special medical and religious diets are included in the menu. Meal preparation is accomplished primarily by inmate workers under the supervision of trained civilian staff. Nearly 10 percent of the total inmate population (3,300 inmates in 1985) work in the food service program.
- Farm operations are conducted at three institutions. The Federal Correctional Institutions at Lompoc, CA and El Reno, OK utilize available land resources in the limited production of beef and milk. The Federal Prison Camp at Allenwood, PA is limited to the production of beef. Farm products are consumed at the producing institution and are also shipped to nearby institutions to offset their need to purchase some products on the open market.
- Medical services are delivered at the institution level by a variety of professional and para-professional health care personnel including physicians, physician assistants, nurses and dental staff. Within 14 days of admission, all inmates receive a complete physical examination including a chest x-ray and, if indicated, a psychiatric evaluation. This physical examination provides an accurate physical, dental, and mental appraisal of the inmate. Medical staff conduct sick call five days a week which includes examination of

patient complaints, ordering and assessment of diagnostic tests and implementation of a medical treatment plan. Inmates in segregation units are seen at least once during each 24-hour period by a physician assistant. Inmates with complaints during other than normal working hours or on weekends and holidays are seen by medical staff on-duty or on-call. If an inmate has a health condition which is beyond the professional capability of the institution's medical staff, the inmate is referred to a contract physician or hospital in the community or one of the Bureau's medical referral centers.

The Medical Center for Federal Prisoners (MCFP) at Springfield, Missouri is the major medical referral center for the Federal Prison System. Four additional regional medical referral centers within the FFS health care delivery system are:

1. FCI, Butner, NC - referrals are made psychiatric cases mainly from the Northeast and Southeast Regions.
2. FCI, Lexington, KY - referrals are female medical and psychiatric cases nationwide and male medical cases primarily from the Northeast and Southeast Regions. Also, selected chronic (disabled, handicapped, geriatric) cases are referred to Lexington on a nationwide basis.
3. FCI, Terminal Island, CA - referrals of both male and female medical, surgical, and psychiatric (for male inmates) cases are made primarily from the Western Region.
4. MCFP, Rochester - referrals are medical and psychiatric cases nationwide.

The U.S. Public Health Service (PHS) provides personnel in support of the FFS medical program. In addition, agreements with the Veterans Administration (VA) provide for the utilization of VA medical facilities on a referral basis. Medical, surgical, and rehabilitative services which were not available in FFS hospitals, are provided to inmates through contract arrangements with community hospitals and/or governmental health facilities.

The Federal Prison System maintains an inventory of clothing, footwear, toiletries, linens and writing supplies for issue to all inmates during incarceration. Clean clothing and linens are issued weekly in exchange for clothing and linens to be laundered. A laundry operation is maintained to clean all clothing and linens. All services are performed with inmate labor under staff supervision.

In addition, FFS maintains an Inmate Trust Fund account for all monies on deposit for each inmate. Monthly inmate earnings received for work with Federal Prison Industries, performance pay, and money from family, friends or other sources during visits or via the mail are deposited directly to each inmate's account. Inmates can withdraw funds when needed to make purchases from the commissary, send money to family members, pay for legal services or pay for supplies in programs such as college courses or leisure activities.

Accomplishments and Workload: Actual and estimated accomplishments of the Inmate Care Program are presented in the following tables:

Item	Estimates		
	1983	1984	1985
Food and Farm Services:			
Meals provided.....	89,154	95,124	99,778
Pounds of food served per inmate per day.....	5.38	5.38	5.38
Percent of Recommended Dietary Allowance.....	100%	100%	100%
Number of farms operated.....	3	3	3
Value of farm products produced.....	\$1,556,000	\$1,446,000	\$1,500,000



Item (Con't)	Estimate		
	1983	1984	1985
<b>Medical Services</b>			
Outpatient visits.....	927,800	980,464	1,041,594
Inpatient admissions.....	5,131	5,432	5,948
Complete physical exams.....	43,498	46,107	49,771
Vision refractions.....	10,535	11,328	12,319
Laboratory tests.....	682,211	727,652	803,532
Surgical procedures.....	7,499	8,094	9,282
X-rays.....	68,649	72,914	79,726
Consultant visits (institution and community).....	63,555	63,983	74,350
Dental visits.....	146,585	157,787	173,724
Dental exams.....	33,258	35,554	39,040
Dental procedures.....	92,351	92,351	100,982
<b>Other Inmate Services:</b>			
Supply of clothing/footwear.....	148,590	157,505	165,380
Supply of linens.....	222,796	236,164	247,972
Laundry materials.....	11,880	12,593	13,355
Inmate Trust Fund collections (\$ in 000's).....	\$32,780	\$36,623	\$38,454
Inmate Trust Fund disbursements (\$ in 000's).....	\$32,083	\$36,896	\$38,741

The Federal Prison System (FPS) continues to provide three nutritional meals daily. These meals are certified for nutritional adequacy by registered dietitians and are well within the Recommended Dietary Allowances of the Department of Agriculture's National Research Council.

In addition, FPS continues to provide offenders with adequate, comprehensive, accessible, and high quality health care services. The FPS has 24-hour or 16-hour medical coverage, as appropriate, at all of its institutions and the MCFP, Springfield, Missouri, and the FCI's Lexington, KY, Burner, NC and Terminal Island, CA have maintained accreditation by the Joint Commission on Accreditation of Hospitals. With funding approved in 1983, the FPS acquired the former state mental hospital in Rochester, Minnesota, and is now converting this facility for use as a 300-bed medical/psychiatric referral center.

The FPS also continues to provide inmates with clean clothing, footwear, toiletries, linens, writing supplies during incarceration and continues to maintain the Inmate Trust Fund. During 1984, the Inmate Trust collected \$36,623,235 for deposit in Inmate accounts and disbursed a total of \$36,895,755.

Program Changes: An increase of \$571,000 is requested for 1985 to provide for the purchase of food supplies (\$300,000); medical supplies and contract services (\$211,000) and clothing, footwear, bedding, toiletries, etc., (\$60,000) as a result of a projected population increase of 367 from 33,423 at the base level to 33,790. The request also includes \$2,000,000 to provide inmates with medical, surgical, and rehabilitative services through contract arrangements with community hospitals, doctors, labs, etc., when such services are not available in PFS facilities.

In addition, 55 positions, 50 workyears and \$3,683,000 are requested to provide resources to activate new facilities in 1986 as follows:

Facility	Estimated Activation Date	Food and Farm Services			Medical Services			Other Inmate Services		
		Pos.	WY	Amount (in 000's)	Pos.	WY	Amount (in 000's)	Pos.	WY	Amount (in 000's)
Caldwell Allen Detention Center....	11/85	11	10	\$1,252	22	20	\$1,333	4	4	\$292
La Tuna Camp Housing Unit.....	11/85	...	...	...	2	2	124	...	...	...
Montgomery Housing Unit.....	11/85	2	2	117	...	...	35	...	...	...
Millen Housing Unit.....	1/86	1	1	60	1	1	47	...	...	...
Allamore Housing Unit.....	1/86	1	1	20	...	...	...	...	...	...
Olatheville Seelitz Camp.....	1/86	3	2	122	2	1	51	...	...	12
Seagrave Housing Unit Addition..	1/86	...	...	...	3	3	88	...	...	...
Tucson Housing Unit.....	1/86	1	1	58	1	1	25	...	...	...
Tombstone Housing Unit.....	1/86	...	...	...	1	1	47	...	...	...
Total.....		19	17	1,629	32	29	1,750	4	4	304

#### 1985 Appropriation

Facility	Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY
Institution Security.....	4,381	4,021	\$113,427	4,381	4,190	\$116,000	4,550	4,352	\$120,291	169	162
Long-Range Goal: Provide institution security, inmate control, and inmate supervision to ensure the maximum protection for the community, staff, and inmates consistent with program requirements in all PFS facilities.											

#### Major Objectives:

Reduce or minimize the situations and opportunities which can lead to prohibited acts such as escapes, homicides, assaults, suicides, and drug transactions.

Maintain an effective transportation system for prisoners in conjunction with the U.S. Marshals Service.

Meet correctional standards in all institutions.

Base Program Description: All institutions are assigned a security classification based in part on the physical design of each facility. There are six security level classifications, number one being the least restrictive and number six the most restrictive. Offenders are assigned a custody status which relates to the degree of supervision needed, and from a security and custody standpoint, are assigned to an institution. The result is a grouping of offenders with similar custodial needs in an institution.

Within each institution, correctional officers are assigned to security posts which are primarily established on the basis of structural/visual considerations. Supervision of inmates is provided in living units, visiting areas, dining halls, recreation areas, and any other area where inmates may be located or have access to. The two basic categories of security are perimeter security and internal security. Perimeter security consists of a walled or fenced perimeter supplemented by manned gun towers, razor tape concertina wire strung between a double fence, high mast lighting to illuminate the perimeter, perimeter patrols and highly technical equipment such as alarm systems and video surveillance. Entrances through the perimeter are controlled by a series of gates, both electrical and manual, supplemented by metal detection systems and search procedures for weapon and contraband control.

For all practical purposes, all other security measures, processes and activities can be called internal security, which commences when an inmate is committed and terminates upon his/her release. Included within this process are both metal detection and physical search procedures and intake screening to insure the safety of newly committed offenders within the general population. Medical screening is also accomplished to protect the general population from disease and health hazards.

To monitor inmates, regularly scheduled counts are conducted several times a day in all institutions. Work supervisors and program personnel are held strictly accountable for all inmates under their supervision. Violations of institution regulations are dealt with through the Inmate Discipline Process. Correctional staff investigate the incident, prepare a report and submit it to the Unit Discipline Committee, which usually consists of a unit manager, case manager and a correctional counselor. Depending on the seriousness of the charge, the Unit Committee may hear and decide the case or refer it to the Institution Discipline Committee for hearing and decision. There is an administrative remedy process for appealing decisions of the Committee.

Administrative Detention/Disciplinary Segregation are programs for separation from the general population of offenders who require special protection and for those who pose a serious escape risk or threat to the security and orderly operation of the institution. Disciplinary segregation provides segregation of offenders who have committed serious prohibited acts within the institutional setting. Inmates are held in segregation only after a due process hearing where the inmate is given the opportunity to rebut the charge against him.

Much staff time is consumed in the monitoring of identified members of prison "gangs" such as the Mexican Mafia, Aryan Brotherhood, Nuestra Familia, Black Guerrilla Family and Texas Syndicate, organizations whose constitutions advocate violence, drug trafficking, sexual activities and theft. If these groups can be controlled, then they will be unable to realize their goals within the institution.

In coordination with the United States Marshals Service, the Federal Prison System maintains a prisoner transportation system including the transportation of Witness Security inmates.

Assaults, escapes and other prohibited acts are normally a violation of Federal statutes requiring FBI investigation and referral to the U.S. Attorney's Office for a determination whether or not to prosecute. Prosecution of these incidents enhances staff, inmate, and public safety. Successful prosecution frequently hinges on the initial response and handling of the crime scene and subsequent procedures by institution staff. This requires a highly trained, educated, and professional team of correctional officers.

Accomplishments and Workload: Actual and estimated accomplishments of the Institution Security program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Confined population.....	49,797	51,286	53,703
Successful confinement rate.....	98.8%	99%	99%
Incapacitation rate.....	99.3%	99.6%	99.7%
Security staff coverage rate.....	85.8%	86.7%	87%
Overcrowding.....	2%	2%	1%

Confined population includes the inmate population at the start-of-year plus admissions during the year. The successful confinement rate is the percent of those inmates who will not be involved in assaults, homicides and suicides. The incapacitation rate is the percent of inmates confined who will not escape. As illustrated in the above table FRS continues to minimize the situations and opportunities which lead to prohibited acts. In 1984, only one percent of the total confined population were involved in assaults, homicides, suicides and escapes.

To minimize opportunities for the commission of prohibited acts, FRS has established staffing guidelines for its facilities as a result of an ongoing full-field review which considers the institution's security level, posts and rated capacity. The security staff coverage rate is the percent of institution posts such as front entrances, control room, units, segregation/detention, visiting room, perimeter security activities areas, etc., that can be covered with available staff (fortyyears). Covering all posts improves security and is a factor in reducing the incidents of negative inmate behavior. However, there are other factors such as the general population becoming more violent and overcrowding which have significant impact on negative behavior. For example, overcrowding was a factor in the New Mexico State Penitentiary riot in 1981 as well as a riot in an Oklahoma State facility in 1982.

In order to improve our ability to properly classify offenders and protect staff and inmates alike, FRS developed and implemented a new security designation and classification system. Since 1980, when the system was fully implemented, there have been declining rates of inmates on inmates as well as inmates on staff assaults. This system results in a security level classification of every inmate and institution from security level one, the lowest security level to level six, the highest. The purpose of the system is to send inmates to the least restrictive facilities that provide appropriate security. This significantly reduces the risk of predatory and non-predatory offenders.

During 1984, the prisoner transportation system handled approximately 62,000 moves. In addition, 700 Witness Security cases were relocated without incident.

**Program Changes:** The request provides an additional \$38,000 for security supplies associated with a projected Federal inmate population increase in 1986. In addition, the request includes 169 positions, 162 workyears and \$4,223,000 to activate or expand this program at the following facilities scheduled for completion during 1986:

Facility	Estimated Activation Date	Resources	
		Pos.	Amount (in 000's)
Oakdale Allen Detention Center.....	11/85	94	89
La Tuna Housing Unit.....	11/85	11	11
Butner Segregation Unit.....	11/85	8	8
Montgomery Housing Unit.....	11/85	11	11
Hillman Housing Unit.....	1/86	7	5
Allenwood Housing Unit.....	1/86	7	7
Ottaville Seclite Camp.....	1/86	9	9
Seagrville Housing Unit Addition.....	1/86	7	7
Tucson Housing Unit.....	1/86	5	5
Tusentana Housing Unit.....	1/86	6	6
Lexington Rehab Building to Housing Unit.....	1/86	4	4
<b>Total.....</b>		<b>169</b>	<b>102</b>

1985 Appropriation	1985 Base		1986 Estimate		Increase/Decrease	
	Pos.	Amount	Pos.	Amount	Pos.	Amount
Unit Management.....	1,202	\$40,902	1,202	\$40,311	1,260	\$43,062
					58	44
						\$2,751

**Long Range Goal:** To establish a safe, humane environment which minimizes to the extent possible, the detrimental effects of confinement; and to provide a variety of counseling programs which are most likely to aid inmates in a successful adjustment to the institution and, upon release, a successful return to the community.

#### Major Objectives:

Subdivide the inmate population into small well-defined and manageable groups whose members develop a common identity from close association with each other and their unit staff.

Increase the frequency of contacts and improve relations between staff and inmates resulting in: a) better communication and understanding between individuals; b) more individualized classification and program planning; c) more valuable program review and program

adjustments; d) better observation of inmates, enabling early detection of problems before they reach critical proportions; e) development of common goals which encourage unit cohesiveness; f) a more positive living and work atmosphere for staff and inmates; and g) more efficient accountability and control of inmates.

Ensure that decisions regarding inmates are made by staff most closely associated with those inmates, increasing the quality and wisdom of the decisions.

Provide program flexibility so that programs promote behavioral changes.

Provide opportunities for individual and group counseling in each unit.

Provide drug abuse programs for inmates who have the need and motivation to participate.

**Basic Program Description:** The purpose of the Unit Management program is to improve inmate control and establish healthy relationships between staff and inmates by dividing the large institution population into smaller, more manageable groups. A team of multi-disciplinary staff who have administrative and supervisory authority in most institutional aspects of programming and living are permanently assigned and located in the unit to work with the inmates. This places services closer to the users and permits decision-making by those who are most knowledgeable of the inmates and their programs. The increased interaction between inmates and staff enhances communication and understanding of inmates needs to a level not possible in a centralized correctional environment. The program is carried out through the proper classification of inmates and development of inmate programs on the basis of need and motivation.

All unit staff members are involved in inmate decisions or recommendations including furlough recommendations; parole recommendations; custody decisions; disciplinary committee actions; and inmate program participation.

A typical unit staff consists of a unit manager, case manager, correctional counselor, correctional officer, unit secretary, educational representative and a psychologist. Together, these individuals plan, develop, implement and evaluate the program of activities, i.e., education, vocational training, counseling, for all the offenders in their unit.

The PPS also has established Drug Abuse Units to deal with the special problems of inmates who have a dependency on drugs and/or alcohol.

Drug Abuse Units have basically the same staff as the other units except that Drug Abuse Units have a full-time psychologist assigned to the unit because of the therapeutic requirement of the program. The primary objective of all drug abuse programs is to increase an inmate's level of acceptance of responsibility for his behavior.

All drug abuse programs have three phases. The first phase familiarizes the inmates with the various modalities or counseling activities available in the program. All inmates are also provided instruction on the effects of drugs on the body. The second phase is actual participation of the inmates in the therapeutic program deemed most appropriate to his particular drug problem. The program may include individual or group counseling and participation in some education or vocational training program. In addition to fulfilling the responsibilities in the drug program, each participant is required to perform acceptably on an institution job assignment. The third, or "pre-release phase" consists of training and orientation of the inmate for his eventual release. Instruction is provided for job

placement, financial responsibility and community drug abuse services and programs. The inmates are also given guidance and instruction regarding his parole responsibilities after release. Approximately 18 to 24 months are required to complete the three phases of the program.

Accomplishments and Method: Actual and estimated accomplishments of the Unit Management program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Average Daily Population.....	29,718	31,394	32,930
Number of Units.....	160	160	179
Counseling Hours.....	490,922	430,884	443,811
Initial Classification Studies.....	18,100	18,126	18,670
Parole Hearing Reports.....	28,200	30,150	30,860
Study & Observation Reports.....	799	803	827
Transfer Reports.....	10,536	11,275	11,530
CIC Referral Reports.....	7,675	7,463	7,687
Parolees Processed.....	15,709	16,688	17,189
Releases.....	19,764	20,509	21,432
			22,396

The Federal Prison System has virtually met its goal of establishing functional unit management in most of its major facilities. Recently, however, it has become necessary in some instances to return to a centralized management system or to administratively combine two units into one larger unit under the supervision of one unit manager. This action results from a system wide security staff shortage due to increasing population levels. There are a total of 160 functional units in FRS institutions including 28 drug abuse programs.

FRS continues to use the Security Designation System to place each individual inmate in an institution with the Security Level most appropriate for that inmate. Institutions are rated from Security Level 1 (minimum security) to Security Level 6 (maximum security). Once an inmate is placed in the proper institution, the Unit Management system provides further opportunity for an even more refined inmate classification scheme, which places an inmate in a specific unit which has security and programs most appropriate for that inmate.

Program Charges: The request provides \$41,000 for release costs, contract services and supplies associated with the projected population increase of 367 over the 1986 base. In addition, the request includes 58 positions, 44 workyears and \$2,710,000 to activate or expand this program at the following facilities scheduled for completion during 1986:

Facility	Estimated Activation Date	Resources	
		Pos.	WY Amount (in 000's)
Cadillac Allen Detention Center.....	11/85	10	9 \$258
La Tuca Housing Unit.....	11/85	7	6 394
Burner Segregation Unit.....	11/85	...	...
Montgomery Housing Unit.....	11/85	6	5 331
Hillman Housing Unit.....	1/86	5	3 214
Allenwood Housing Unit.....	1/86	6	4 290
Ottaville Seawall Camp.....	1/86	6	4 291
Seagrville Housing Unit Addition.....	1/86	7	5 357
Tucson Housing Unit.....	1/86	5	3 208
Thurston Housing Unit.....	1/86	2	1 157
Lexington Rehab Building to Housing Unit.....	1/86	4	4 180
Total.....		58	44 2,710

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
Inmate Programs.....	617	593 \$28,753	617	615 \$29,117	647	641 \$30,379
					30	26 \$1,262

This budget activity finances the costs of academic, social and occupational education courses, leisure time activities and religious and psychology services.

#### Long Range Goal:

Provide general and occupational education opportunities to all inmates desiring or required to participate;

Provide Federal offenders with a full range of recreation and leisure activities to improve their physical and mental health and promote the development of personal, interpersonal and social skills to better enable them to cope with the psychological and physical aspect of their incarceration;

Provide all prisoners with reasonable and equitable opportunities to pursue individual religious beliefs and practices within the constraints of confinement;

And provide immediate and long-term psychological care for Federal inmates with mental health problems and assist in the decision making of the courts, prison administrators and parole officials.



Major Objectives:

Provide education programs designed to meet inmate needs for functional literacy, high school equivalency, continuing education, and personal growth and to enhance their employability upon release.

Maintain education program certification or accreditation by regional Associations of Colleges and Schools or other appropriate accrediting agencies.

Expand institutional library services to meet ACA standards by establishing inter-library loan agreements; by utilizing mobile or rotating library collections; and/or by directly providing adequate library services.

Increase involvement of institution-based psychology staff in identifying learning disabled inmates and assist instructional staff to select the appropriate teaching methods and techniques to be used.

Provide a variety of indoor and outdoor physical, cultural, and related leisure activities with opportunities to belong to social and other groups.

Increase the number of institutions which have Artists-In-Residence.

Make available the appropriate worship services of the various religious disciplines represented within the inmate population.

Provide a variety of non-worship religious program options.

Provide psychological screening for every inmate admitted to the FPS.

Establish base rates of incidence of the different types of mental health problems found in the inmate population.

Provide psychotherapy to all inmates who desire and need it.

Provide crisis intervention counseling to every inmate in crisis.

Provide psychological evaluations requested by the courts, parole officials, and prison administrators.

Continue special treatment programs in drug abuse and alcohol abuse units.

Base Program description: Inmate programs include general and occupational education courses, leisure time activities and religious and psychology services.

General education programs are designed to meet specific inmate needs for functional literacy, high school equivalency, continuing education, and personal growth. There are five major components of the general education program: Adult Basic Education (ABE), General

#### Education Development (ED), Adult Continuing Education (ACE), Postsecondary Education (PSE) and Social Education.

The ACE component is designed for the 20 percent of the inmate population having less than a sixth grade education. The ED component is for the nearly 50 percent of Federal offenders who lack a high school diploma and consists of high school equivalency courses and general equivalency diploma examinations. ACE Courses are designed for inmates who have a desire to "brush up" in a special area or enroll in a special interest program, e.g., speed reading, English, mathematics, contemporary issues, history and foreign language. PSE courses are for inmates who have successfully completed high school and want to further their education, e.g., drafting, real estate, data processing, and dental technology. The Social Education component helps inmates develop a positive self-image and adequate social skills.

Occupational education programs serve to enhance the employability of offenders upon release, particularly those who either lack a solid employment history or a salable skill. The majority of Federal offenders are unskilled at the time of commitment to prison. Federal offenders can choose a vocation, through instruction, work experiences, and career orientation; acquire or improve productive work skills and habits; and gain practical knowledge essential to working and functioning in a complex industrial-technical world of work. Approximately 15,000 Federal offenders will have the opportunity to participate in these training activities through the following five major components of the occupational education program: Exploratory Training, Pre-Industrial Training, Vocational Training, On-the-job Training and Apprenticeship Training.

Exploratory training involves study of industries and occupations for a general knowledge of the world of work rather than specific skill development. Pre-Industrial training is short-run training for a targeted job in prison industries. Vocational training includes instruction and training in specific entry-level or advanced skills. On-the-job training consists of organized instruction and training under actual working conditions in institution services and maintenance shops and Federal Prison Industries' factories. Apprenticeship training provides journeyman level instruction and training through structured apprenticeship programs approved at the state and national levels by the Bureau of Apprenticeship and Training, U.S. Department of Labor.

A wide variety of leisure time activities are offered at each Federal prison including indoor and outdoor individualized (weightlifting, jogging, etc.) and group (basketball, touch football, volleyball, etc.) athletic activities and arts and crafts (ceramics, painting, drama, leathercraft, music, etc.). Chess and bridge clubs are organized in many institutions; inmate drama groups put on plays and, at times, write their own plays; and inmate bands in country, rock and soul music perform concerts for the inmate population. Movies and invited guest performances are scheduled as frequently as possible.

Chaplaincy personnel within PPS are responsible for personally delivering the religious services of their particular faith group and for arranging the delivery of religious services of other faith groups. PPS annually issues approximately 225 contracts for the delivery of services of the smaller faith groups and other related religious services. PPS Chaplains also recruit, train, supervise, and sustain approximately 2,500 volunteers from the community who regularly visit the institution to participate in the religious programming. PPS staff Chaplains, contract Chaplains and volunteer clergy routinely conduct over 12,000 religious worship services each year representing the various religious disciplines within the prisoner population. In addition to worship services, chaplaincy personnel offer numerous other religious program options including counseling services for family crises, marriages, deaths, illnesses, pregnancies, abortions and marital problems. Bible and Koran studies, moral growth seminars, group counseling, retreats, revivals, choir, marriage enrichment

programs, parenting seminars, curriculae, etc., are offered weekly. In an average institution, there are usually about 300 non-worship meetings annually.

Staff Chaplaincy visit at least once weekly inmates who are confined without freedom of movement in areas such as segregation and the hospital. In addition, visits are made to the visiting room, housing units, work assignment areas, and to prisoners confined to community hospitals and jails. Staff Chaplaincy coordinates numerous community-based religious activities for prisoners which include furloughs and day trips for seminars, retreats, workshops, religious education courses, prayer meetings, religious holiday observances, and special worship experiences.

Psychology staff are an integral part of correctional treatment administering programs of group and individual psychotherapy, crisis intervention, personal development classes, and staff consultation/training. Policy requires that every inmate admitted to a PFS facility be given an initial psychological screening which consists of psychological testing, psychological interview, social history review, and behavioral observation. The purpose of the screening is to identify special treatment and/or referral needs; provide information useful in future crisis-counseling situations; identify strengths as well as potential adjustment problems to imprisonment; and discuss possible program needs with the inmates and provide information about them. The Minnesota Multiphasic Personality Inventory (MMPI) is the psychological screening test used. The results of the screening are summarized in a report placed in both the inmate's central file and the psychological file.

Both individual and group psychotherapy is offered on a voluntary basis to those inmates who express a desire and evidence need for it. Training and orientation programs are also offered for developing "life competency skills". These have proven successful in improving personal skills and knowledge including communication, assertiveness, self-help, interpersonal relationships, conflict resolution, problem solution and work skills. Short-term crisis counseling has only recently been acknowledged by mental professionals as a powerful, viable skill. Not only have PFS psychologists gained expertise in this area, but they also have provided training and consultation to staff in all institutions. PFS psychologists have traditionally provided the courts, parole officials and prison administrators with quality psychological evaluations. Many of these presentence evaluations have resulted in the diversion of offenders from the institution to the community.

Accomplishments and Workload: Actual and estimated accomplishments of this program are presented in the following table:

	Estimates		
	1983	1984	1985
<b>Education:</b>			
Enrollments:			
Adult basic education.....	8,177	9,502	10,475
Adult continuing education.....	8,533	11,465	12,570
General education development.....	5,216	5,935	6,505
Social education.....	12,832	13,501	14,175
Post secondary education.....	11,356	11,659	12,090
Occupational education.....	14,234	14,211	15,655

	Enrollments		
	1983	1984	1985
Completions:			
Adult basic education.....	3,838	5,044	5,250
Adult continuing education.....	4,783	6,207	6,310
General education development.....	2,288	3,094	3,150
Social education.....	10,086	10,932	11,445
Post secondary education.....	7,407	6,853	7,140
Occupational education.....	7,119	7,721	8,085
Formal leisure activities, enrollments.....	21,352	15,210	15,960
Formal leisure activities, completions.....	11,682	9,049	9,450
Religious Services:			
Worship.....	11,780	12,000	13,000
Non-worship programs (represent monthly totals).....	15,120	15,480	16,620
Psychology Services:			
Court evaluations.....	1,404	1,501	1,536
Baseline evaluations.....	28,626	30,827	31,546
Individual therapy sessions.....	28,141	31,120	32,444
Group therapy sessions.....	7,704	8,519	8,682
Participants in group therapy.....	24,118	25,965	26,571
Crisis intervention sessions.....	22,060	23,591	24,142
Staff training sessions.....	2,629	3,120	3,253
Unit team meetings.....	8,580	9,170	9,300

All inmates except those specifically exempt, e.g., detained aliens, who function below the 6.0 grade level are now enrolled in an ABE program. In addition, the total number of GED tests administered during 1984 was 3,607. PSI programs continue to have one of the highest retention rates of all education programs in the Federal facilities and completion rates in college courses are in excess of 65%. In 1984, Federal prisoners earned approximately 43 college degrees, 39 AA's, 3 BA's and 1 MS.

Education services at the Federal Correctional Institutions (FCI's) Alderson, WI; Danbury, CT; Lompoc, CA; Milan, MI; Morgantown, WI; Oxford, MI; Pleasanton, CA; Sandstone, MN and Terminal Island, CA; Terre Haute, IN; the Federal Prison Camp, Brown, CA and Safford, AZ; and the Medical Center for Federal Prisoners at Springfield, MO are now accredited by the regional commissions of colleges and schools. In addition, accreditation procedures are in progress at seven other institutions.

Apprenticeship programs have been expanded to 310 training units in 79 different trade classifications at 32 institutions. In 1984, 799 inmates enrolled in apprenticeship programs and 294 completed the institution-scheduled portion of the program. Uniform curriculum performance standards were established for Adult Basic Education, mechanics shop and welding vocational courses. Computer assisted instruction was implemented at the FCI's Ray Brook, Lexington, El Reno and Pleasanton.

FFS continues to provide 100 percent of the psychological screening for every inmate admitted to FFS, the psychological evaluations requested by the courts, and the crisis intervention counseling. In addition, the base rates of incidence of mental health disorders have been established using a centralized WPI scoring and data collection system.

Program Changes: The request provides \$77,000 to provide supplies and contract services for the projected increased population as follows: Education, \$46,000; Leisure Activities, \$17,000; Religious Programs, \$9,000; and Psychology Services, \$5,000. In addition, 30 positions, 26 workyears and \$1,185,000 are requested to permit the activation of new facilities and expansions scheduled in 1986 as follows:

Facility	Estimated Activation Date	General/Occupational			Leisure Programs			Religious Programs			Psychology Programs		
		Pos.	WT	Amount (in 000's)	Pos.	WT	Amount (in 000's)	Pos.	WT	Amount (in 000's)	Pos.	WT	Amount (in 000's)
Oakdale Alien Detention Center....	11/85	3	3	\$231	10	9	\$470	2	2	\$86	3	2	\$120
Hennigsen Housing Units.....	1/86	1	1	26	1	1	21	...	...	...	...	...	...
Hillman Housing Unit.....	1/86	1	1	26	...	...	...	...	...	...	...	...	...
Allenwood Housing Unit.....	1/86	...	...	...	1	1	21	...	...	...	...	...	...
Oakville Recreational Camp.....	1/86	1	...	28	1	1	26	...	...	...	1	1	30
Seagrave Housing Unit Addition...	1/86	3	2	49	1	1	21	...	...	...	...	...	...
Tucson Housing Unit.....	1/86	...	...	...	...	...	...	...	...	...	1	1	30
Total.....		9	7	380	14	13	559	7	7	186	5	4	180

This budget activity covers all costs associated with the general administration, operation and maintenance of facilities. Included are functions of the warden's office, legal counsel, personnel, financial management, records office, safety, staff training, mechanical services, motor pool operations, power house operations and other administrative functions.

1985 Appropriation Anticipated	1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount
Institution Administration.....	1,277	1,237	\$65,980	1,277	1,265	\$65,698	1,335	1,319	\$69,290
Staff Training.....	63	67	7,261	63	67	7,602	64	68	7,766
Institution Maintenance.....	841	794	72,915	841	808	73,982	855	821	75,824
Total.....	2,181	2,098	146,156	2,181	2,140	147,282	2,254	2,208	152,880

**Long Range Goal:** To continue to provide effective and innovative administration at all institutions and continually seek ways to improve existing administrative practices and procedures.

**Major Objectives:**

Provide executive direction and control at each institution.

Manage each institution's financial resources.

Assemble and maintain an effective workforce and administer personnel policies.

Maintain effective procedures for the processing and disposition of Federal offenders.

Maintain standards for safe and healthy working/living conditions.

**Base Program Description:** The Institution Administration program consists of an institution's executive staff, financial management office, personnel office, administrative systems office and safety office.

The executive staff at each institution including warden, associate warden and executive assistants provide overall direction and implement policies.

The financial management office is charged with the management and control of all allotted funds with responsibility for procurement, property management, warehousing, issuing supplies, equipment, contracting for services, disbursement and collection of monies and collection and input of all data for the automated accounting system and employee payroll.

The personnel office in assembling and maintaining an effective workforce, advertises all vacancies, collects applications, establishes promotion boards and prepares a list of eligibles. The personnel office ensures that all position descriptions are current and accurate. It serves as the management representative to the union, develops manpower plans for institutions and plays a major role in recruiting minorities to meet Equal Employment Opportunity goals.

The administrative systems office is responsible for the processing of detainees and the admission, transfer, sentence computation for and discharge of all Federal prisoners. The admission process entails the identification of inmates, review of court documents, fingerprinting, photographing, and disposition of personal property. Following admission, the administrative systems office performs sentence computation, which involves adjustments due to U.S. Parole Commission action, Institution Disciplinary Committee actions and good time. This office also maintains relationships with Federal, state and local law enforcement agencies, including the courts and parole boards regarding the criminal status of incarcerated and released inmates. Administrative systems staff work with the U.S. Marshals Service and Federal Prison System bus and airlift personnel to coordinate prisoner transfers and consolidate all inmates' records.

In addition, the administrative systems office provides paralegal services such as answers to show cause orders; determinations in sentence computation problems; interpretations of court orders; representation of the institution in court matters pertaining to inmate records; and providing expert testimony regarding sentence computation. The office is also responsible for the processing of all institution mail.

The safety program involves the inspection of institutions for sanitation, rodents, unsafe working conditions and presence of hazardous chemicals. The safety officer is responsible for processing accident reports and compensation forms for employees.

Accomplishments and Workload: Actual and estimated accomplishments for the Institution Administration program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Purchase Orders.....	70,045	92,829	95,614
Accounting Transactions.....	1,619,054	1,630,750	1,725,000
Payments.....	283,000	289,668	303,000
Commitments Processed.....	22,519	21,875	22,969
Transfers in Process.....	11,621	11,132	11,689
Other Movement in (Partridge, Wells, etc.).....	76,160	73,917	77,613
Discharges.....	12,487	12,368	12,986
Transfers Out.....	18,211	18,422	19,343
Other Movement Out.....	76,350	73,466	77,139
Detainers Processed.....	4,846	5,188	5,447
Personal Actions (Internal placement).....	16,000	20,400	21,500
Safety Inspections.....	2,808	2,870	3,014
Accident/Injury Investigations.....	1,772	1,875	1,969
Fire Investigations.....	168	150	150

FPS continues the use of the Financial Management Information System (FMIS) which provides management instant information with regard to funds and established limitation levels. A training program for Trust Fund operations at FCI Fort Worth is in its final stages of development and should be in operation by June 1985. In addition, a training course for budget analysis is under development and should be implemented in July 1985.

The merit promotion plan is being revised to establish unique knowledge, skills, and abilities for each position. Applicants will be measured against the established requirements prior to selection. In addition, all wage grade positions have been revised by comparing on site work and established standards. Action has been taken to align employees with position standards. Also, urinalysis testing and height/weight standards have improved vouchering techniques for the selection of new employees. New procedures have been implemented to improve and to add consistency to the interviewing process. Affirmative action continued at a vigorous rate. Our work force at year end was 33 percent minority including 26 percent female.

Administrative systems workload (number of new commitments, releases, bus runs, shifts, etc.) continue to remain at a high level with no decrease projected in the near future.

Program Changes: The request provides 58 positions, 54 workyears and \$3,592,000 to activate or expand this program at the following facilities scheduled for completion during 1986:

Facility	Estimated Activation Date	Resources	
		Pos.	WT (In 000's)
Oakdale Allen Detention Center.....	11/85	40	36
La Tuna Housing Unit.....	11/85	3	3
Marquary Housing Unit.....	11/85	5	5
Allen Housing Unit.....	1/86	1	1
Allenwood Housing Unit.....	1/86	1	1
Oakville Seafair Camp.....	1/86	4	4
Seagrave Housing Unit Addition.....	1/86	3	3
Thurston Housing Unit.....	1/86	1	1
Total.....		58	54

1985 Appropriation				1986 Estimate				Increase/Decrease	
Anticipated		1986 Base		1986 Estimate		1986 Estimate		1986 Estimate	
Pos.	WT	Pos.	WT	Pos.	WT	Pos.	WT	Pos.	WT
Staff Training.....	63	67	\$7,261	63	67	\$7,602	64	68	\$7,766
								1	1
									\$164

Long-Range Goal: To communicate current policies and procedures to all staff and to teach them the skills and techniques necessary to maintain a safe, secure and productive correctional environment.

#### Major Objectives:

To provide 31,589 instances of training by 1986 as follows:

Basic correctional training for all new staff (1,760 instances).

Advanced correctional training for 240 experienced employees.

Annual job specialty training for 4,220 employees.

Annual executive/management classes for 200 employees including SES candidates and incumbents.

Instruction for 736 trainers, supervisors, and managers.

Annual correctional training for 4,539 employees.



Institution-based operations training for all staff (22,216 inmates).

Base Program Description: Staff training is being provided on site at each of the institutions; at three residential training centers; through external training provided by the Office of Personnel Management and other Federal agencies; by colleges and universities; and by private agencies.

The Federal Prison System operates a training academy at Glynn, Georgia which provides three weeks of introductory correctional training for all new employees. This modern facility accommodates up to forty-eight students. The training academy facilities include housing for the students, rifle ranges, and adequate space for firearms, self-defense, and disturbance control training. Course materials are organized and written and provide instruction on abnormal behavior, community programs, counseling systems, the dynamics of prejudice, equal employment opportunity, employee conduct and responsibility, employee stress management, escapes, fire prevention, first aid, correctional practices, inmate discipline, interpersonal communications, and legal issues.

Most of the FBI's meetings, workshops, and conferences are held at the management and specialty training center in Denver, Colorado. This center can house thirty-five students at costs substantially less than they would be at a motel. The center conducts a wide range of courses for supervisors and program managers and also trains trainers for the institutions' locally conducted courses. These include courses for equal employment opportunity counselors, unit managers, correctional counselors, correctional supervisors, medical records technicians, hospital administrative officers, case managers, and industrial mid-managers. The training center offers courses for required instructor certification in firearms, self-defense, disturbance control, and interpersonal communications.

The Fort Worth correctional institution operates a center which offers training for all food service personnel.

Of necessity, most training must be conducted on site at the institutions. Each institution has a Training Coordinator who plans, manages, and organizes the institution's training programs. Certain institution-conducted courses are required by national policy. For example, each new employee must be given one week of orientation training immediately upon entry on duty. Each experienced employee must be given correctional refresher training each year in such subjects as self-defense, disturbance control, firearms, fire protection, and inmate supervision. Each new case manager and unit manager must complete a self-study course in case management operations within sixty days of appointment. Each new employee of Federal Prison Industries must complete an industrial operations course within thirty days after entry on duty.

Accomplishments and Workload: Actual and estimated accomplishments for the Staff Training program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
External Training Provided.....	3,308	3,878	3,856	4,084
STC Training Provided.....	1,204	1,901	1,800	2,008
RPCT Training Provided.....	950	813	756	736
Internal Training Provided.....	24,532	26,908	27,068	27,329

In 1984, the training program delivered 30,422 instances of training to nearly 10,000 employees. By contrast, in 1984 only 1,200 training instances were delivered; in 1989, there were 4,800 training instances; and in 1979, there were 19,886 instances. Just twenty years ago, only one of every five employees was given training each year. Now nearly 100 percent of the FFS employees are given some training each year.

Program Changes: The request includes 1 position, 1 workyear and \$164,000 to train approximately 25% of the 385 new employees.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount
Institution Maintenance.....	841	794	\$72,915	841	808	\$73,982	855	821	\$75,824	14	13	\$1,842

Long-Range Goal: Continue preventive maintenance program, provide continuous service of all utilities in the most energy efficient manner, and provide transportation services in support of institutional operations.

Major Objectives:

Purchase utilities or maintain and operate utility systems and central power plants.

Maintain and operate telecommunication and transportation services.

Maintain the interior of all buildings such as plumbing, electronics, masonry, mechanics, carpentry and painting.

Maintain the exterior of all buildings including landscaping, gardening, fence repair and painting.

Base Program Description: The Institution Maintenance Program addresses the problem of maintaining and operating the physical plants of the Federal Prison System (FPS).

These facilities vary in age from 100 years to buildings recently constructed. Over fifty (50) percent of the facilities are more than 30 years old which is the expected life of buildings without major repairs.

The facilities are situated on approximately 29,000 acres and the buildings contain approximately 15 million square feet of floor area, all of which must be maintained and furnished utility services. Additionally this program provides for maintenance and operation of approximately 1,000 vehicles.

These facilities contain complex heating and air conditioning systems, large, high pressure steam power plants, large quantities of

sophisticated hospital equipment, emergency electrical power systems and fire protection and life safety systems. Each institution maintains communication systems including complete private automatic branch exchange telephone systems, radio systems including base station and mobile units and several electronic detection and control systems.

Institution maintenance requirements are identified through facilities inspections conducted as part of the on-going preventive maintenance program; through formal semiannual inspections; and through requests for specific needs identified by institution staff members. This program provides for maintenance projects estimated to cost \$4,000 or less. Maintenance requirements in excess of \$4,000 are included in the "Modernization and Repair" program of the "Buildings and Facilities" appropriation.

The work within this program is accomplished almost entirely by inmate crews under staff supervision. Each work crew consists of a staff foreman and between five and fifteen inmates. Each institution must have staff with experience and training in each phase of construction and maintenance work. Highly skilled work foremen are required in several trades such as steamfitters, air conditioning mechanics and electronics technicians. A few specific jobs are contracted out because special skills or equipment items are required, or because the work may be extremely dangerous. Examples of these jobs are elevator inspection and repair, radio frequency alignment, and water tower painting.

Accomplishments and Workload: Actual and estimated accomplishments of the Institution Maintenance program are presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
Major maintenance projects completed (\$200-\$4,000).....	553	640	700	750
Minor maintenance projects completed (\$200 or less).....	115,671	111,615	120,000	125,000
Power plants operated.....	30	30	30	30
Energy Consumption:				
Electricity (MWh).....	215,476,082	227,483,743	211,559,881	216,792,007
Natural Gas (cu ft).....	1,968,822,472	2,156,861,187	2,005,880,903	2,053,488,711
#2 Fuel Oil (gal.).....	1,290,851	1,338,076	1,300,000	1,300,000
#6 Fuel Oil (gal.).....	262,388	386,437	350,000	350,000
Coal (tons).....	14,671	12,218	13,000	13,000
Propane (gal.).....	147,009	1,103,140	1,000,000	1,000,000
Purchased Steam (lbs).....	12,603,397	4,031,879	4,000,000	4,000,000
Purchased Chilled Water (Ton Hours).....	1,695	1,417	1,500	1,500
Vehicle miles driven.....	7,879,346	7,642,365	7,727,769	7,772,769

During 1984, the FRS began a pilot program for a totally automated maintenance management system at FCI Bay Brook. After the initial test period, plans are to expand this program to all institutions over the next few years.

Program Changes: This request provides \$82,000 for utilities, trash removal, cleaning and maintenance supplies commensurate with a projected population increase of 367 in 1986. In addition, this level includes 14 positions, 13 workyears and \$1,760,000 to activate or expand this program at the following facilities scheduled for completion during 1986:



Long Range Goal: Manage resources for confinement of offenders in non-federal facilities including state and local correctional institutions, juvenile facilities, local detention facilities (jails), and community based facilities and provide liaison between these agencies, the U.S. Marshall Service, U.S. Probation Service, U.S. Parole Commission, Federal Courts, and the Federal Prison System.

Major Objectives:

Contract for the confinement of all Federal juveniles in appropriate non-federal juvenile facilities; adult offenders who would be in danger in FFS facilities or whose special program needs cannot be met in FFS facilities; adult offenders with sentences of up to 180 days in local detention facilities; and 100 percent of the community residential program bed space.

Monitor contract Community Treatment Centers with less than 1,000 inmates days a year annually (minor use facility), and those with 1,000 inmates days or more biannually (major use facility).

Provide training for all contractors annually.

Provide accurate and timely information to the Central Inmate Monitoring and Witness Protection tracking system.

Keep the Federal law enforcement agencies aware of changes in FFS policy, sentencing alternatives and other areas of concern.

Maintain close relationships with state and local correctional agencies to exchange information and manage resources.

Provide individual case management services to inmates confined in contract facilities.

Base Program Description: Community Program Managers (CPM's) negotiate and monitor contracts for the housing of Federal offenders in state and local institutions and in residential community treatment centers. Contracts are maintained with private, state and local juvenile facilities for the placement of all committed juveniles; with state correctional institutions, largely for inmates who are not safe in Federal facilities (protection cases); and with local detention facilities for those offenders with up to 180 days to serve, or those recommended for local confinement by the court. Contracts are also maintained for housing inmates in community treatment centers to provide services to inmates as they attempt to establish themselves as fully functioning citizens while still under supervision.

The CPM's also make recommendations for designation of newly sentenced offenders and are responsible for the placement of direct commitments to non-federal facilities. They provide case management services to all Federal inmates placed in non-federal institutions and serve as technical consultants to contractors on FFS Policy.

In addition, CPM's serve as the FFS liaison with members of the U.S. Marshall Service, U.S. Probation Service, U.S. Parole Commission, Federal courts, other Federal agencies, state and local government agencies and local community agencies. There are presently 40 CPM's stationed in 34 major cities throughout the United States.

Accomplishments and Methods: Actual and estimated accomplishments for this program are presented in the following table:

Item	1983		1984		1985		1986	
	Pos.	WY	Pos.	WY	Pos.	WY	Pos.	WY
Number of contracts with juvenile facilities.....		75		75		64		64
Number of contracts with adult facilities.....		59		59		65		65
Number of contracts with jails.....		410		410		450		450
Number of contracts with community treatment centers.....		280		280		280		280
Contract monitoring:								
Major use facility.....		63%		63%		100%		20%
Minor use facility.....		60%		70%		100%		100%
Designations.....		21,700		24,872		25,000		25,200

#### 1985 Appropriation

Anticipated	1985 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY	Pos.	WY	Pos.	WY

Contract State and Local Institutions.. ... \$19,169 ... \$19,908 ... \$19,908 ... ..

Long Range Goal: To provide, through contract, high quality and diversified state, local and private facilities to house all offenders requiring confinement outside the Federal Prison System (excluding Community Treatment Centers).

#### Major Objectives:

Place all offenders committed under the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974 in appropriate non-federal juvenile facilities.

Place juveniles near their home and in community-based facilities whenever possible.

House those offenders who are in danger in Federal institutions, in state correctional institutions or other facilities.

House offenders with sentences of up to 180 days or less in local detention facilities.

Base Program Description: While FFS has a large number and variety of correctional institutions in which to provide for the care and custody of Federal offenders, there are certain categories of offenders that need to be confined in state and local facilities. These include persons committed under the Federal Juvenile Justice and Delinquency Prevention Act. This law requires separation of juveniles from adult offenders as well as placement of juveniles in community-based facilities near their residence whenever possible. A second category includes adult offenders the majority of whom are protection cases; that is, inmates whose lives might be endangered in Federal facilities. Lastly, there are offenders with short sentences (generally 180 days or less) who are placed in local detention facilities (jails) for service of sentence.

Accomplishments and Workload: Actual and estimated accomplishments for the Contract State and local programs are presented in the following table:

Item	Estimates	
	1985	1986
Average daily population:		
Juveniles.....	98	95
Adult Offenders.....	90	120
Short Termers.....	508	1,325
Number of Federal inmates admitted to non-Federal facilities:		
Juveniles.....	30	47
Adult Offenders.....	80	105
Short Termers.....	1,436	3,710

Since 1977, with only minor exceptions, the FRS has been able to place all juveniles in non-Federal juvenile facilities. During 1984, FRS contracted for the confinement of an average daily population of 91 juveniles. Roughly 24 percent of the juveniles are placed in community-based facilities and 77 percent are confined in their state of residence which enhances the opportunity to use available community resources and increases opportunities for visits from relatives and friends. In addition, FRS used adult state correctional institutions to house an average daily population of 110 adult Federal prisoners who needed protection and those who had special needs. We believe this action has prevented some deaths and assaults and has allowed these inmates to live in the general population and participate in programs. This program also allows approximately 3,344 short term offenders (or an average daily population of 668) to remain in their home community, near families and friends. It also saves the Government transportation expenses to and from a Federal institution.

An added benefit of contracting for the confinement of Federal prisoners in state and local institutions is that contract based population results in a reduction to FRS institution based population and thus reduces overcrowding. For example, in 1983 contract based population reduced institution based population by 2.3 percent. In 1984, institution based population was reduced by 2.5 percent and in 1985 and 1986 FRS estimates a reduction of 4 percent for each year.

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	Wt	Pos.	Wt	Pos.	Wt	Pos.	Wt
Contract Community Treatment Centers..	...	\$31,613	...	\$32,201	...	\$30,201	...	-\$2,000

Long Range Goal: To provide high quality community-based residential correctional programs for all eligible federal prisoners who need transitional programming at the end of their sentences; who the courts determine should be placed in these community-based facilities as an alternative to placement in correctional institutions, and who are not adjusting well in the community under supervision and need additional attention.

Major Objectives:

Provide community residential resources to all FFS releasees deemed eligible and appropriate for release to a Community Treatment Center (CTC).

Release inmates to CTCs for an average length of stay of 110 days.

Provide 100% of the community residential program bed-space requested by Federal courts, the Probation Service and the Parole Commission.

Base Program Description: Community Programs Managers (CPM's), who are stationed in major cities across the country are responsible for contracting with private community treatment centers for community residential bed-space, monitoring the centers to insure they are complying with FFS sort requirements, making suggestions for improvement and providing technical assistance to contractors.

The basic services provided by CTCs are: 1.) pre-release transition programs for eligible offenders returning to the community at the end of their sentences; 2.) community-based residential alternatives to confinement in regular penal institutions for those sentenced offenders the Federal courts determine need more than probation and less than full institution confinement and services; 3.) community-based residential care for offenders who are under probation or parole supervision but who need more intensive services and/or programs than can be provided under the "street" supervision of the U.S. Probation Officer; and 4.) community-based care for offenders committed directly from court generally serving short sentences.

Contract CTCs provide services to inmates attempting to establish themselves as fully functioning citizens while still under supervision. Available services include individual and group counseling, supervised living quarters, employment and placement assistance.

Accomplishments and Workload: Actual and estimated accomplishments for the Contract CTC program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Total Residents Admitted.....	7,091	9,982	10,585
Pre-Releasees Admitted.....	6,106	7,041	7,685
Court Referrals Admitted.....	495	1,087	1,100
Probation/Parole Referrals Admitted.....	485	1,750	1,800
Average Daily CTC population.....	2,056	2,452	2,650
Average Length of Stay in CTCs (days).....	100	100	100

Since January 1983, the FFS has increased the number of inmates confined in contract CTCs from 948 to approximately 2,450 today. Currently the FFS is providing community residential programs to 80% of all FFS releasees deemed eligible and appropriate for release to a CTC for an average length of stay of 100 days. Community Programs Managers continue to closely monitor CTC placements to insure maximum utilization of CTC bed space within funds available.



A pilot program was implemented in 1983 in the Washington, D.C. area for offenders with sentences of up to one year for whom institutionalization is unnecessary but probation or a regular CTC program is either not appropriate or adequate. This program, called the Community Correctional Center (CCC), provides more security and has less privileges than a CTC. In addition, performance of community service work is mandatory and the inmates must contribute to his room and board. A second CCC program was developed in 1984, and future expansion is planned for 1985.

An added benefit of contracting for the confinement of Federal prisoners in community treatment centers is that contract based population results in a reduction to FRS Institute, a based population and thus reduces overcrowding. For example, in 1983, confinement of Federal prisoners in community treatment centers reduced institution based population by 6.8%. In 1984, institution based population was reduced by 7.1% and in 1985 and 1986 FRS estimates a reduction of 7.1% and 7.2% respectively.

**Program Changes:** Since FRS could accomplish its objective of providing community based correctional programs for all FRS releases deemed eligible and appropriate for release to a Community Treatment Center at a funding level of \$30,201,000, a program decrease of \$2,000,000 is requested for 1986.

Activity/ Program Direction	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Executive Direction and Control....	225	249	\$11,345	225	249	\$11,431	225	249	\$10,907	...	...	-\$525
Administrative Services.....	185	197	16,493	185	197	16,962	185	197	15,917	...	...	-1,045
Total.....	410	446	27,838	410	446	28,394	410	446	26,824	...	...	-1,570

This budget activity covers the costs of regional and central office executive direction and management support functions such as the executive staff, regional and central office program managers, research and evaluation, program analysis, budget development, policy development and implementation, system support, financial management, personnel, AWP, space management, and legal services.

Activity/ Program Direction	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Executive Direction and Control....	225	249	\$11,345	225	249	\$11,432	225	249	\$10,907	...	...	-\$525

**Long Range Goal:** To continue providing effective, comprehensive direction and leadership to the Federal Prison System (FPS) by coordinating, initiating and evaluating planning and operational activities through the various central office branch chiefs, regional office program managers and the executive staff.

#### Major Objectives:

Establish and execute policy.

Provide legal counsel on correctional issues.

Plan, develop, coordinate, and evaluate FRS programs and activities.

Investigate alleged employee misconduct.

Maintain capabilities to respond effectively to public and congressional inquiries.

When necessary and appropriate, assist state correctional systems, the District of Columbia Department of Corrections, the U.S. Marshals Service, the Immigration and Naturalization Service and other jurisdictions experiencing difficulty by housing their offenders.

Assist state and local governments in their efforts to acquire surplus Federal property for correctional use.

Have all Federal institutions as well as Central and Regional Offices accredited by the Commission on Accreditation for Corrections.

Basic Program Description: The overall administration of the Federal Prison System is located in the central office and five regional offices. The following describes the organization and functions of these offices.

The Executive Staff which plays a major role in FRS management and operations, includes the Director, all Assistant Directors, Medical Director, Associate Commissioner for Federal Prison Industries, and all Regional Directors. The Executive Staff reviews all major issues and determines major policy for the FRS.

The General Counsel provides legal assistance and advice to the Federal Prison System including adjudication of grievances and appeals filed under the FRS's EEO program; review of FOIA requests; final appeal on Administrative Remedy Procedures; coordination of litigation; interpretation of laws and directives; review of policy and procedures for legal applications; and other legal assistance as necessary.

The Assistant Director for Correctional Programs is responsible for programs for the care, custody and correction of inmates including institution security, inmate custody, case management, unit management, disciplinary and psychology services, staff training and community programs. He is also responsible for the function of personnel management.

The Director of the Medical Services Division is responsible for establishing a system wide health care program. The Medical Director is also responsible for the FRS's farm operations, food services, inmate compensation programs, and safety and sanitation.

The Assistant Director for Administration is responsible for the Bureau's construction and mechanical services activities for new and existing facilities; program planning and evaluation; research; budget development; financial management; and information systems.

The Associate Commissioner for Federal Prison Industries (FPI) reports directly to the Director and to the Federal Prison Industries Board of Directors. The Associate Commissioner is responsible for FPI Industrial Operations and Corporate Management and educational and leisure programs.

The Office of Inspections is responsible for investigating violations of standards of professional conduct by employees and officers of the Federal Prison System, for providing overall guidance in program auditing and for monitoring the correctional standards/accreditation review process.

Accomplishments and Workload: Actual and estimated accomplishments for the Executive Direction and Control program are presented in the following table:

Item	Estimates	
	1983	1984
Policy Statements Issued.....	45	50
Change Notices.....	70	75
Operations Memoranda.....	288	311
Public Affairs Reports and Requests.....	4,725	4,725
Congressional Inquiries.....	4,506	5,000
Tort Claims.....	1,900	1,900
FOIA/Privacy Act Cases.....	4,075	4,575
Administrative Ready Cases.....	20,000	20,000
ISO Cases.....	90	90
Investigations of Alleged Violation of Standards of Professional Conduct.....	177	180

Program Changes: The request includes a \$250,000 decrease associated with one-time legal services to inmates. Also included is a decrease of \$275,000 associated with a ten percent reduction in administrative expenses.

The FRS continues to lend assistance to many state correctional systems experiencing difficulty by housing their offenders. Currently, there are approximately 800 state offenders in FRS facilities. In addition to state prisoners, there are approximately 1,383 from the District of Columbia, 11 from Guam, 14 from Puerto Rico, 97 from the Virgin Islands and 2 from the Northern Mariana Islands. To assist the U.S. Marshals Service in housing unsentenced Federal prisoners, due to their inability to renew or negotiate contracts with states and local jails because of overcrowding, the FRS has established or expanded jail units for pre-trial detainees at several institutions including the Bastrop, Tarrant County, Texas, and the Hall County, Georgia, and the Metropolitan Correctional Centers at Chicago, Miami, New York, San Diego and Tucson. There are approximately 2,385 pre-sentence detainees in FRS facilities. In addition, at the request of the Immigration and Naturalization Service, the FRS also is housing approximately 1,648 Cuban refugees.

FRS institutions continued the accreditation process. To date, 34 institutions have been accredited for three year terms.

During 1984, the Office of Research produced major reports on prison crowding; research needs and availability of information in corrections; an alternative to incarceration, the community correctional center; Youth Corrections Act population projections; drug involvement of incoming offenders at the New York Metropolitan Correctional Center; the status of Mexico National border-crossers who are incarcerated in Bureau of Prisons institutions; the research program at Buxton; and the staff research cohort project which established a new procedure to gather data on Bureau staff which may help to correct chronic problems in survey research. An overview of all major projects was compiled for review by the Bureau's Advisory Research Committee which is comprised of five individuals outside the

Bureau who have records of significant achievement in the area of corrections. In addition, major projects were initiated on evaluating the relationship of institutional training to post-release employment, the costs of medical services by "outside" sources, the process of conducting psychiatric evaluations on study cases, and the effects of the Comprehensive Crime Control Act of 1984 on the Bureau's population.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount
Administrative Services.....	185	197	\$16,493	185	197	\$16,962	185	197	\$15,917	...	...	-\$1,045

Long Range Goal: Provide for effective personnel administration including equal employment opportunity; an efficient and responsive financial management system including procurement and property management; and systems support administration and oversight.

#### Major Objectives:

Increase the rate of hiring minorities and women to ensure their representation in the workforce.

Increase the number of minorities and women promoted to management and supervisory positions.

Review local labor contracts as they are negotiated assuring compliance with master agreement prior to approval.

Complete analysis of all Merit System Protection Board and arbitration decisions of the past 12 months to determine patterns and identify potential problems.

Provide current and accurate financial management information.

Place more emphasis on cost center management (primarily through training) to ensure greater program manager involvement in the management of funds.

Conduct financial management reviews at all institutions.

Continue to implement SPURRY multi-terminal systems as required.

Improve system-wide service and teletype telecommunication system.

Base Program Description: The central and five regional offices are responsible for the functions of personnel management; maintenance of equal employment opportunity medical services; financial management, including procurement and property management; and AIP services, records management, mail, printing, reproduction, and space management.

Personnel administration is largely regulated by the government-wide merit system and requires considerable planning and coordination with both the Department of Justice and the Office of Personnel Management. Coordination is necessary with colleges, high schools, civic groups, public and private groups and organizations in order to recruit an efficient work force. Increasing minority and women hiring is accomplished through recruitment campaigns, visits to colleges and universities and other similar programs. SED specialists have been placed in each region in order to help carry out this program.

Training is provided to appropriate personnel in labor/management relations and arbitration. Provisions of newly negotiated Master Agreements and local supplemental agreements are communicated widely to increase employee involvement, particularly field employees, in the process. Merit System Protection Board and arbitration cases are reviewed and analyzed to provide more thorough insight into labor/management policy problems.

Financial Management provides for the design, development, and implementation of financial systems and the maintenance and continuous analysis, evaluation and modification of existing systems to ensure compliance with statutory and regulatory requirements and to meet the administrative needs of the FRS. Financial Management establishes property accounting, cost-based budgeting practices and suitable internal control procedures; and develops and provides financial reports on the fiscal status, financial results of operations, and the cost of the FRS's operations. Financial Management is also responsible for the development of the FRS's financial operating plans and the administration of funds appropriated to the FRS. Financial audits are conducted to ensure field compliance with policies and regulations. These audits are scheduled to accomplish a financial review of each field location every 18 months.

The Property Management and Procurement functions are also the responsibility of Financial Management. This includes procurement responsibility for all services and supplies; the administration of regulations for all procurement and personal property and administrative legal claims matters; and the review and interpretation of statutes and regulations of other government agencies relating to all phases of property management and procurement.

In addition, Financial Management is responsible for special inmate services (including commissary, inmate trust fund, and laundry). Commissary operations provide opportunities for inmates to purchase items above the necessities of life. Inmate trust fund operations account for all monies on deposit for each inmate. Laundry operations provide all inmates clean clothing, footwear and linens. Other inmate services include provisions for toiletries and writing supplies.

The FRS's batch inmate information system provides a variety of demographic information on the inmate population, but is of limited use because the information is not timely. For the past few years the FRS has been involved in the implementation of the SENTEX system, an on-line system which performs up-to-the minute locator status information on all individuals under the custody of the Attorney General. It provides population counts and refined inmate demographic statistics; interagency and intra-institution population movement, schedules, notices, and statistics; and it will automatically compute and update sentence computations. It will also provide base program data for other information modules under development or to be developed.

Accomplishments and Workload: Actual and estimated accomplishments for the Administrative Services program are presented in the following table:

Item	Estimates	
	1983	1984
Personal Surveys.....	22	22
BOO Recruitment Activities.....	45	84
Representation of Women in the FPS Workforce.....	202	202
Representation of Minorities in the FPS Workforce.....	252	252
New Hires - Women.....	362	362
New Hires - Minorities.....	322	322
Promotion - Women.....	262	262
Promotion - Minorities.....	282	282
Arbitration Cases.....	89	90
Financial Management Systems.....	25	18
System Support Batch AUP-Supported Sites.....	53	53
ERP SENTRY Sites.....	84	88
LEAS SENTRY Sites.....	6	8
USMC SENTRY Sites.....	6	6
U.S. Attorney SENTRY Sites.....	0	1
DOJ SENTRY Sites.....	1	1
U.S. Probation Office.....	0	0

During 1981, all FPS facilities were equipped with a single SENTRY terminal. Multi-terminal SENTRY was also initiated in 1981 and fifteen sites were equipped. During 1982, an additional eighteen sites were equipped with multi-terminal systems. In addition, a Legal Reference System and an Electronic Mail Module were added to the SENTRY System. Also, in 1982, the Office of Enforcement Operations in the Department of Justice was added to the network. The Inmate Information System batch processing was transferred from SYDA to SENTRY in 1983. The Electronic Mail System was enhanced to provide service to virtually all employees. A Legal Litigation System was also added to SENTRY in 1983. Installation of the multi-terminal configuration was completed at all existing facilities in 1984. While significant improvements and services have been provided by SENTRY the equipment is becoming antiquated and the central data center concept can no longer support local and end-user computing demands.

FPS is currently developing an on-line Integrated Financial Management System. The system will replace the current batch system and will include accounting, procurement, and the Trust Fund operations.

FPS negotiated a new master contract between BOP and AFGE. A register for Physician Assistants was activated and established based on delegation of authority from the Office of Personnel Management. Training was conducted for all field personnel offices in the recently developed workforce utilization program which utilizes the management of both workyears and positions.

Program Changes: The request includes a decrease of \$1,045,000 as a result of reducing administrative expenses.

Federal Prison System

Salaries and expenses

Justification of Multi-Activity Program Increases  
(Dollars in thousands)

Program/Activity	Activates Oakdale			Activates La Tuna			Activates Burner			Activates Montgomery		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Inmate Care.....	37	34	\$2,877	2	2	\$124	...	...	...	2	2	\$152
Institution Security.....	94	89	2,284	11	11	269	8	8	\$214	11	11	286
Unit Management.....	10	9	258	7	6	394	...	...	30	6	5	531
Inmate Programs.....	18	16	807	...	...	...	...	...	...	2	2	47
Total, Inmate Care, Outbody and Programs.....	159	148	6,366	20	19	787	8	8	244	21	20	815
Institution Administration.....	40	36	3,000	3	3	135	...	...	...	5	5	127
Staff Training.....	1	1	115	...	...	12	...	...	...	...	...	7
Institution Maintenance.....	14	13	1,095	...	...	70	...	...	35	...	...	70
Total, Institution Administration and Institution Maintenance.....	55	50	4,210	3	3	217	...	...	35	5	5	204
Total.....	214	198	10,536	23	22	1,004	8	8	279	76	75	1,080

## Federal Prison System

## Salaries and expenses

## Justification of Multi-Activity Program Increases (Con't)

(Dollars in thousands)

Program/Activity	Activate Milan Housing Unit			Activate Allenwood Housing Unit			Activate Oklawaha Satellite Camp			Activate Seagoville Unit		
	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount
Inmate Care.....	2	2	\$107	1	1	\$20	5	3	\$185	3	3	\$98
Institution Security.....	7	5	189	7	7	191	9	9	219	7	7	193
Unit Management.....	5	3	214	6	4	290	6	4	291	7	5	357
Inmate Programs.....	1	1	26	2	2	51	2	1	54	4	8	70
Total, Inmate Care, Custody and Programs.....	15	1	536	16	14	552	22	17	749	21	18	708
Institution Administration.....	1	1	37	1	1	63	4	4	111	3	3	91
Staff Training.....	...	...	7	...	...	3	...	...	12	...	...	6
Institution Maintenance.....	...	...	70	...	...	70	...	...	70	...	...	70
Total, Institution Administration and Institution Maintenance.....	1	1	114	1	1	136	4	4	193	3	3	167
Total.....	16	12	650	17	15	688	26	21	942	24	21	875



## Federal Prison System

## Salaries and expenses

Justification of Multi-Activity Program Increases (Con't.)  
(Dollars in thousands)

Program/Activity	Activate Tucson			Activate Tusculum			Activate Lexington			Population Increase		
	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount
Inmate Care.....	2	2	\$83	1	1	\$47	...	...	...	...	...	\$571
Institution Security.....	5	5	100	6	6	173	4	4	\$105	...	...	38
Unit Management.....	5	3	208	2	1	157	4	4	180	...	...	41
Inmate Programs.....	1	1	30	...	...	...	...	...	...	...	...	77
Total, Inmate Care, Custody and Program.....	13	11	421	9	8	377	3	8	285	...	...	727
Institution Administration.....	...	...	...	1	1	28	...	...	...	...	...	...
Staff Training.....	...	...	1	...	...	1	...	...	...	...	...	...
Institution Maintenance.....	...	...	70	...	...	70	...	...	70	...	...	82
Total, Institution Administration and Institution Maintenance.....	...	...	71	1	1	99	...	...	70	...	...	82
Total.....	13	11	492	10	9	476	8	8	355	...	...	809

Federal Prison System  
Salaries and expenses  
Justification of Multi-Activity Program Increases (Con't)  
(Dollars in thousands)

Activities Okaloosa

A total of \$17,000,000 was approved in 1982 for site acquisition, design and construction of a 1,000-bed Detention Center in Okaloosa, LA. Construction is scheduled for completion in October 1985. The request for 214 positions, 198 workyears and \$10,336,000 will finance the activation and operation of the facility for ten months during 1986.

Activities La Tuna and Montgomery Housing Units

Funds were approved in 1983 for the construction of housing units at La Tuna (\$9,000,000) and PFC Montgomery (\$2,250,000). Construction is scheduled for completion on both projects in October 1985. The request will provide funds for activation and operation for ten months during 1986.

Activities Turner Segregation Unit

Funds were approved in 1983 for the construction of a segregation unit at PFC Turner, NC in the amount of \$750,000. The request of 8 positions, 8 workyears and \$279,000 will provide for activation and operation of the facility for eleven months during 1986.

Activities Hillen, Allamwood, Searsville, Tucson, Tuscarora, and Lexington Housing Units

Funds were approved in 1985 for the construction of housing units at PFC Hillen (\$3,380,000), PFC Allamwood (\$2,000,000), PFC Searsville (\$1,800,000), PFC Tucson (\$2,050,000), and PFC Tuscarora (\$1,925,000), and the rehabilitation of a building to a housing unit at PFC Lexington (\$750,000). Construction is scheduled for completion in each project in December 1985. The request will provide for activation and operation for nine months during 1986.

Activities Otterville Satellite Camp

A total of \$9,000,000 was approved in 1985 for the construction of a satellite camp at Otterville, NY. Construction is scheduled for completion on in December 1985. The request for 26 positions, 21 workyears and \$942,000 will provide for activation and operation of the facility for nine months during 1986.

Population Increases

The 1985 appropriation enacted provides for a population of 31,533. Supplemental funding in the amount of \$3,000,000 is requested to provide for a population of 32,530 (1,997 over the previous projection). Anticipation of the 1985 supplemental request (\$1,149,000) will support a population of 33,427 at the 1986 base level. The request includes an additional \$609,000 to support the projected 1986 population level of 33,790 (an increase of 367 over what is provided for at the base level).

Federal Prison System  
Salaries and expenses  
Detail of Permanent Positions by Category  
Fiscal Years 1984-1986

Category	1984 Authorized	1985 Authorized	1986	
			Program Increases	Total
Attorneys (905).....	10	10	...	10
Paralegal Specialist (950).....	54	54	1	55
Other Legal and Kindred (900-998) .....	218	218	20	238
Correctional Institution Administration (006).....	474	500	16	516
Correctional Officers (007).....	4,359	4,823	190	5,013
Other Miscellaneous Occupations (901-099).....	134	139	5	144
Social Sciences, Economics and Kindred (100-199).....	599	672	35	707
Personnel Management (200-299).....	211	216	5	221
General Admin Clerical and Office Services (300-399).....	684	716	17	733
Biological Science (400-499).....	1	1	...	1
Accounting and Budget (500-599).....	324	341	7	348
Medical, Dental, and Public Health (600-799).....	687	661	32	693
Engineering and Architecture Group (800-899).....	22	22	...	22
Information and Arts Group (1000-1099).....	2	2	...	2
Business and Industry Group (1100-1199).....	78	81	...	81
Mathematics and Statistics Group (1500-1599).....	1	1	...	1
Equipment, Facilities and Service Group (1600-1699)...	183	199	8	207
Education Group (1410-1411; 1700-1799).....	284	311	9	320
Supply Group (2000-2099).....	50	52	...	52
Upgraded (culinary, farm, mechanical & construction)...	1,157	1,222	40	1,262
<b>Total.....</b>	<b>9,532</b>	<b>10,441</b>	<b>385</b>	<b>10,826</b>
Washington.....	223	223	...	223
U.S. Field.....	9,309	10,218	385	10,603
<b>Total.....</b>	<b>9,532</b>	<b>10,441</b>	<b>385</b>	<b>10,826</b>

Federal Prison System  
Salaries and expenses  
Summary of Adjustments to Base  
(Millions in thousands)

	Perma. Fos.	Work- years	Amount
1985 as enacted.....	10,441	9,869	\$503,450
1985 funding provided in 1984 supplemental.....	...	...	5,055
Transfer from Buildings and Facilities.....	...	...	4,450
Supplementals requested:			
Pay increase supplemental requested:			Amount
Increased pay costs.....	...	...	\$67,303
Deferrals or reprogrammings to meet increased pay costs.....	...	...	-956
Net pay supplemental.....	...	...	7,345
Program Supplementals requested:			
Population increase.....	...	...	3,083
Proposed recision.....	...	...	-451
1985 appropriation anticipated.....	10,441	9,869	\$522,932
Adjustments to base:			
Savings resulting from management initiatives:	...	...	-9,096
Five percent pay reduction.....	...	...	...
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....	...	...	717
Annualization of 1985 pay increases.....	...	...	4,000
Annualization of 1985 program increases.....	...	329	11,291
With-grads increases.....	...	...	2,691
Health benefits costs.....	...	...	929
Federal Employee's Compensation Act (FECA) - Unemployment Benefits.....	...	...	120
Federal Employee's Compensation Act (FECA) - Worker's Compensation.....	...	...	361
GPO printing costs.....	...	...	11
GSA recurring reimbursable services.....	...	...	13
Federal telecommunications system (FIS).....	...	...	193
Department telecommunications.....	...	...	33
Automated legal research and litigation support services.....	...	...	1
General pricing level adjustment.....	...	...	7,600
Total, uncontrollable increases.....	...	329	28,767
Decreases:			
Full-field investigation.....	...	...	-160
Nonrecurring activation costs.....	...	...	-11,108
Total, decreases.....	...	...	-11,268
1986 Base.....	10,441	10,198	\$503,128

Federal Prison System

Salaries and Expenses

Justification of Adjustments to Base  
(Dollars in thousands)

	<u>Next-</u> <u>Years</u>	<u>Budget</u> <u>Auth.</u>
...	...	-99,096

Savings resulting from management initiatives:

1. Five Percent Pay Reduction.....
- Savings of \$9,096,000 will be realized as a result of the proposed 5 percent pay reduction in salaries for civilian federal employees.

Uncontrollable increases:

1. Restoration of reduction for change in hourly rate..... 717

Section 310 (b) (1) of the Omnibus Reconciliation Act of 1982 required that for 1984 and 1985 pay be computed on the basis of 2,087 workhours. These funds were withdrawn from the 1984 budget. For 1986 the basis for computing pay reverts to 2,080 workhours and restoration of the \$717,000 reduced in 1984 is required to fund the change in the hourly rate.

2. Additional annualization of 1985 pay increase..... 4,000

This provides for the annualization of the January 6, 1985 pay increase contained in Executive Order 12496, dated December 28, 1984. There are 70 paid days (October 1, 1984 through January 5, 1985) that were not included in the pay raise amount of \$7,345,000 that will require annualization in 1985. The amount associated with these 70 days is \$3,042,000. Additionally, \$938,000 of the request was absorbed. The calculation of the amount required for annualization is:

70/261 x annual amount of pay raises.....	\$3,042,000
1985 absorption of pay.....	938,000
Total annualization.....	\$4,000,000

Work- years	329	Budget Auth.	\$11,291
3. Annualization of additional positions approved 1983.....			
This provides for the annualization of 1,097 additional positions.			
		Approved 1983 increase	Annualization required
Annual salary rate of 1,097 approved positions.....		\$22,456	
Less lapse (30%).....		-6,981	\$6,981
Net compensation.....		15,475	
Associated employee benefits.....		7,240	1,181
Other object classes.....		30,072	3,229
Total costs subject to annualization.....		\$2,887	11,291
4. Within-grade increase.....			
This request provides for the increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$2,412,000 and benefits \$479,000 = \$2,891,000).			
5. Health benefits costs.....			
The Federal Employees Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate. Effective the first pay period after January 1, 1984, actual contributions to health insurance increased approximately 11 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$929 provides funds for increased costs from pay period No. 2 (\$335,937) to pay period No. 3 (\$371,666) projected for 26 pay periods.			
6. Federal Employees' Compensation Act (FECA) - Unemployment Benefits.....			
No increase for unemployment compensation is expected in 1986. However, there will be a redistribution of estimates based on actual benefits paid in a representative fiscal quarter. This redistribution will increase the 1985 change of \$197,000 to \$317,000.			
7. Federal Employees' Compensation Act (FECA) - Workers' Compensation.....			
This increase reflects the billing provided by the Department of Labor for the actual costs in 1984 of employee's accident compensation. The 1985 amount will be \$361,000 over the 1984 base of \$5,359,000.			

	Mark- year	Budget Auth.
8. GPO Printing costs.....	...	\$11
The Government Printing Office (GPO) is currently projecting a five percent increase over the 1983 printing cost of \$200,000. An additional \$11,000 will be required in 1986.		
9. GSA recurring reimbursable services.....	...	13
Reimbursable payments are made to the General Services Administration for heating, ventilation and air conditioning (HVAC) provided in excess of normal working hours and for guard services on a reimbursable basis. GSA has estimated a 5 percent increase over 1983 charges.		
10. Federal Telecommunications System (FTS).....	...	193
The FTS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1983 the uncontrollable increase will be \$193,000.		
11. Department Telecommunications.....	...	33
Expenses for equipment, installation and commercial tolls (to include message units and directory assistance) have increased dramatically since April 1984. An increase was not requested for 1985 due to the uncertainties surrounding industry restructuring and deregulation at that time. Annualization of the current level of billing indicates that 1985 expenses will be approximately 18 percent higher than 1983 estimated expenses, requiring an uncontrollable increase of \$33,000.		
12. Automated legal research and litigation support services.....	...	1
Centralized JURIS, litigation support, and case management services are available for all departmental organizations through the Departmental Working Capital Fund (WCF). The WCF is projecting an increase of 5 percent over the FY 1983 costs of \$5,000. An additional \$1,000 will be required in 1986.		

	Work- Years	Budget Auth.
13. General pricing level adjustment.....	...	\$7,600
<p>This request applies the OHS pricing guidance of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1986 estimates.</p>		
Total uncontrollable increases.....	329	28,160
<u>Decreases (automatic non-policy)</u>		
1. Nonrecap-req facilities activation costs.....	...	-11,308
<p>This decrease represents the non-recurring costs for equipment, supplies, and change of official duty station associated with the 1985 activations.</p>		
2. Rate decrease for full-field investigations.....	...	-360
<p>The Office of Personnel Management (OPM) has notified users of a \$175 reduction below the 1984 base cost of \$1,550 charged for each full-field investigation. The uncontrollable decrease is calculated on average accession of 2,057 persons per year for a total reduction of \$360,000.</p>		
Total uncontrollable decreases.....	...	-11,668
Total adjustments to base level estimates.....	329	7,396



Federal Prison System  
Salaries and Expenses  
Financial Analysis - Program Changes  
(Dollars in thousands)

Item	Inmate Care		Institution Security		Unit Management		Inmate Programs	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
GS/GM 15.....	4	\$209	...	...	...	...	...	...
GS/GM 14.....	...	...	...	...	...	...	...	...
GS/GM 13.....	...	...	...	...	...	...	5	\$188
GS-12.....	4	126	1	\$32	10	\$316	2	63
GS-11.....	22	580	4	106	15	396	11	290
GS-10.....	...	...	...	...	...	...	...	...
GS-9.....	1	22	4	87	23	502	8	174
GS-8.....	...	...	24	474	...	...	...	...
GS-7.....	...	...	105	1,872	...	...	4	71
GS-6.....	1	16	30	481	...	...	...	...
GS-5.....	2	29	1	14	10	144	...	...
Ungraded.....	21	500	...	...	...	...	...	...
Positions and annual rate.....	55	1,482	169	3,066	58	1,358	30	786
Lapse.....	-5	-195	-7	-215	-14	-277	-4	-149
Workyears and compensation.....	50	1,287	162	2,851	44	1,081	26	637
Other personnel compensation.....	2	115	17	527	1	58	...	37
Total workyears and compensation....	52	1,402	179	3,378	45	1,139	26	674
Personnel benefits.....	...	284	...	598	...	211	...	103
Travel and trans. of persons.....	...	...	...	11	...	10	...	...
Transportation of things.....	...	...	...	...	...	...	...	...
Other rent, comm.....	...	...	...	...	...	...	...	...
Other services.....	...	2,656	...	94	...	...	9	243
Supplies and materials.....	...	1,910	...	40	...	28	40	190
Equipment.....	...	2	...	140	...	1,344	...	52
Grants, subsidies.....	...	...	...	...	...	10	...	...
Total.....	52	6,254	179	4,261	45	2,751	26	1,262

Federal Prison System  
Salaries and Expenses  
Financial Analysis - Program Changes  
(Dollars in thousands)

Item	Institution Administration		Staff Training		Institution Maintenance	
	Pos.	Amount	Pos.	Amount	Pos.	Amount
GS/GM 15.....	1	\$52	...	...	...	...
GS/GM 14.....	3	133	...	...	...	...
GS/GM 13.....	1	38	...	...	...	...
GS-12.....	4	126	...	...	1	\$32
GS-11.....	6	158	1	\$26	1	26
GS-10.....	...	...	...	...	...	...
GS-9.....	15	327	...	...	...	...
GS-8.....	...	...	...	...	...	...
GS-7.....	15	267	...	...	...	...
GS-6.....	2	32	...	...	...	...
GS-5.....	4	58	...	...	...	...
Ungraded.....	7	167	...	...	12	286
GS-4.....	58	1,358	1	26	14	344
Lapse.....	-4	-230	...	-3	-1	-40
Workyears and compensation.....	54	1,128	1	23	13	304
Other personnel compensation.....	...	13	...	...	...	9
Total workyears and compensation...	54	1,141	1	23	13	313
Personnel benefits.....	...	1,201	...	4	...	36
Travel and trans. of persons.....	...	152	...	86	...	...
Transportation of things.....	...	795	...	...	...	...
Other rent, comm.....	...	70	...	...	...	1,034
Other services.....	...	96	...	46	...	17
Supplies and materials.....	...	117	...	5	...	442
Equipment.....	...	20	...	...	...	...
Grants, subsidies.....	...	...	...	...	...	...
Total.....	54	3,592	1	164	13	1,842

Federal Prison System  
Salaries and Expenses  
Financial Analysis - Program Changes  
(Dollars in thousands)

Item	Contract CTC's		Executive Direction and Control		Administrative Services		Total	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
GS/GM 15.....	..	...	...	...	...	...	5	\$261
GS/GM 14.....	..	...	...	...	...	...	3	133
GS/GM 13.....	...	...	...	...	...	...	6	226
GS-12.....	...	...	...	...	...	...	22	695
GS-11.....	...	...	...	...	...	...	60	1,582
GS-10.....	...	...	...	...	...	...	...	...
GS-9.....	...	...	...	...	...	...	51	1,112
GS-8.....	...	...	...	...	...	...	24	474
GS-7.....	...	...	...	...	...	...	124	2,210
GS-6.....	...	...	...	...	...	...	33	529
GS-5.....	...	...	...	...	...	...	17	245
Ungraded.....	...	...	...	...	...	...	40	953
Positions and annual rate.....	...	...	...	...	...	...	385	8,420
Lapse.....	...	...	...	...	...	...	-35	-1,109
Workyears and compensation.....	...	...	...	...	...	...	350	7,311
Total personnel compensation.....	...	...	...	...	...	...	20	759
Other workyears and compensation.....	...	...	...	...	...	...	370	8,070
Personnel benefits.....	...	...	...	...	...	...	...	2,437
Travel and trans. of persons.....	...	...	...	-154	...	-154	...	-49
Transportation of things.....	...	...	...	...	...	...	...	795
Other rent, comm.....	...	...	...	...	...	...	...	1,104
Other services.....	...	-92,000	...	-9371	...	-516	...	274
Supplies and materials.....	...	...	...	...	...	-92	...	2,640
Equipment.....	...	...	...	...	...	-283	...	1,275
Grants, subsidies.....	...	...	...	...	...	...	...	10
Total.....	...	-2,000	...	-525	...	-1,045	370	16,556

Federal Prisons System  
Salaries and Expenses  
Summary of Requirements by Grade and Object Class

Grades and salary ranges	1985 Estimate		1986 Estimate		Increase/Decrease	
	Positions & Workyears	Amount	Positions & Workyears	Amount	Positions & Workyears	Amount
ES-6 \$72,300.....	1		1		...	
ES-4 \$68,700.....	13		13		...	
ES-3 \$66,232.....	3		3		...	
ES-2 \$67,764.....	6		6		...	
ES-1 \$61,296.....	1		1		...	
GS-15 \$35,262-67,940.....	104		109		5	
GS-14 \$44,430-57,759.....	167		170		3	
GS-13 \$37,599-48,876.....	241		247		6	
GS-12 \$31,619-41,105.....	635		637		22	
GS-11 \$26,381-34,292.....	1,461		1,521		60	
GS-10 \$24,011-31,211.....	66		66		...	
GS-9 \$21,804-28,347.....	1,173		1,224		51	
GS-8 \$19,740-25,662.....	1,333		1,337		24	
GS-7 \$17,824-23,170.....	3,188		3,312		124	
GS-6 \$16,040-20,855.....	423		456		33	
GS-5 \$14,390-18,710.....	365		362		17	
GS-4 \$12,862-16,723.....	24		24		...	
GS-3 \$11,458-14,896.....	15		15		...	
Ungraded positions.....	1,222		1,262		40	
Total, appropriated positions.....	10,441	\$263,524	10,826	\$266,892	385	\$3,368
Pay above stated annual rates.....	...	1,014	...	1,027	...	13
Lapses.....	-698	-17,521	-404	-9,998	294	7,523
Net savings due to lower pay scales for part of year.....	...	-2,448	...	...	...	2,448
Net full-time permanent.....	9,743	244,569	10,422	257,921	679	13,352
Average ES Salary.....		(\$66,999)		(\$63,649)		
Average GS/CH Salary.....		(25,187)		(24,503)		
Average GS/CH Grade.....		(8.64)		(8.64)		

Federal Prisons System  
Salaries and Expenses  
Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

<u>Object Class</u>	<u>1985 Estimate</u>		<u>1986 Estimate</u>		<u>Increase/Decrease</u>	
	<u>Workyears</u>	<u>Amount</u>	<u>Workyears</u>	<u>Amount</u>	<u>Workyears</u>	<u>Amount</u>
11 Personnel compensation:						
11.1 Full-time permanent.....	9,743	\$244,569	10,422	\$257,921	679	\$13,452
11.3 Other than permanent.....	126	1,782	126	1,747	...	-35
11.5 Other personnel compensation...	439	17,428	475	18,514	36	1,086
Total.....	10,308	263,779	11,023	278,182	715	14,403
<u>Other objects:</u>						
12 Personnel benefits.....		44,375		48,526		4,151
13 Benefits for former personnel....		98		98		...
21 Travel and transportation of persons.....		8,784		9,245		461
22 Transportation of things.....		3,412		3,692		-480
23.1 Standard level user charges and other rent.....		1,636		1,636		...
23.2 Communications, utilities and other rent.....		37,965		40,759		2,794
24 Printing and reproduction.....		82,882		86,095		3,213
25 Other services.....		54,702		60,203		5,501
26 Supplies and materials.....		19,696		12,551		-7,145
31 Equipment.....		882		944		62
41 Grants, subsidies, and contributions.....		19		19		...
42 Insurance claims and indemnities.....						
Total direct obligations.....	10,308	518,526	11,023	542,478	715	23,952

Summary of Requirements by Object Class (Continued)  
(Dollars in thousands)

Object Class	1985 Estimate		1986 Estimate		Increase/Decrease	
	Workyears	Amount	Workyears	Amount	Workyears	Amount
ALLOCATION TO DEPARTMENT OF HEALTH AND HUMAN SERVICES						
11.1 Personnel compensation:		\$2,900		\$2,900		...
Military.....						
Total workyears and personnel compensation.....		2,900		2,900		...
Other objects:						
12.1 Personnel benefits: Military.....	1,400		1,400			...
13 Benefits for former personnel....	2		2			...
21 Travel and transportation of persons.....	25		25			...
22 Transportation of things.....	75		75			...
24 Printing and reproduction.....	1		1			...
25 Other services.....	3		3			...
Total direct obligations, HHS Allocation.....	4,406		4,406			
Total requirements	10,308	522,932	11,023	546,884	715	23,952
Salaries and expenses.....						
Unobligated balance, start-of-year.....		-5,055		...		-5,055
Unobligated balance, transferred out....		-4,450		...		-4,450
Total requirements.....		513,427		546,884		33,457
Relation of obligations to outlays:						
Total direct obligations.....		522,932		546,884		23,952
Obligated balance, start-of-year.....		35,386		46,538		10,952
Obligated balance, end-of-year.....		-46,538		-61,574		-15,036
Outlays.....		511,980		531,848		19,868

Federal Prison System  
Salaries and expenses  
Consulting and Related Services  
(Dollars in thousands)

	1984 Actual	1985 Estimate	1986 Estimate
Consulting Services.....	\$14	...	...
Management and Professional Services.....	...	...	...
Special Studies and Analysis.....	...	...	...
Total.....	14	...	...

Consulting and related services are used in the Federal Prison System for services which cannot be performed in-house. Services are required for the reorganization of the Financial Management Office; development of an automated property management system; and development of annual training courses for non-financial managers, procurement and contracting officers and mid-level and managerial financial management staff.

Mr. EARLY. We are pleased to have Norman Carlson, Director of the Bureau of Prisons, with us again this year.

Mr. Carlson, you have testified for the last 11 years while I have been here on this Committee, and I certainly have become increasingly awed with the success you have had over those years. You never seem to get the acknowledgement or appreciation you deserve, I guess, until you are gone.

But I wonder, all I read is that you have more and more of a problem, and more prisoners coming. But you come to this Committee and request a decrease of \$16 million. Yet I have never seen fat on this particular budget. I never thought your correction officers were overpaid. I always thought they were underpaid. I always thought you had a problem recruiting the quality of the people you need to have.

You have got a unique type of problem in that you have inmates connected with drugs who have a surplus of money available to them. This has got to be a problem for the corrections guards. I just don't understand how you are going to do it as effectively with a \$16 million decrease. You can either give a statement or summarize, whatever you would like.

#### GENERAL STATEMENT

Mr. CARLSON. Thank you, Mr. Chairman. I would like to introduce the statement in the record, if I may, and just summarize briefly.

#### FEDERAL PRISON SYSTEM OVERCROWDING

The major thrust of our budget proposal for 1986 is to address the problem of overcrowding in the Federal Prison System. This morning the population in the 45 federal prisons was 33,862, which compares with 1 year ago today when it was 31,262. We have gone up 2,600 inmates during the past 12 months since I last appeared before this committee.

During the past 4 years the federal prison population has increased by 9,700 inmates, or a net increase of 40 percent. The increase is a result of several factors. First, the recent Department of Justice initiatives focusing particularly on drug trafficking, violent crime and organized crime. Mr. Chairman, it is a reflection of the additional resources this committee has provided to the Federal Criminal Justice System . . . additional FBI agents, DEA agents, Immigration Officers, U.S. Attorneys and U.S. District Court Judges. They have expanded the Federal Criminal Justice System, and as a result there are more cases coming in today than there were in the past.

It is difficult to predict what the future population will be in the Bureau of Prisons. As you know, there are many variables involved which we don't control. We don't control either the intake or the outflow. Historically, we have been conservative in developing population estimates because we don't want to overbuild prison capacity. We recognize that prisons are very expensive not only to build but also to operate.

The budget before you this year, Mr. Chairman, reflects an annual projected population of 33,790 inmates. You will note that



we have already exceeded that figure by 100. The reason is simple. The population has been growing at a much faster rate than we anticipated when we developed this budget 6 months ago and submitted it through channels to the Congress.

#### RETURN OF CUBAN DETAINEES

There is one bright spot, Mr. Chairman. We finally returned 23 of the Marielito Cubans from the U.S. Federal Penitentiary in Atlanta, Georgia, to Havana on February 21, and this afternoon, if all goes as we plan, we will have another group, between 40 and 50 being returned to Havana.

Some 5 years ago we were asked to assume responsibility for the Marielitos. During that period of time, we have totally occupied the U.S. Penitentiary in Atlanta, Georgia, with the Marielito Cubans. We currently have some 1,800 remaining in Atlanta. The Cuban authorities have agreed to accept no more than 100 a month; it will be at least 18 months before that number is diminished.

In addition, we have identified 900 Marielitos now serving sentences in state prisons across the country who eventually will be returned to the U.S. Bureau of Prisons, and then will be returned to Havana under this agreement.

The bottom line is that it is going to take at least 2 years to reduce the total number of Marielitos, but the bright spot is that there is light at the end of the tunnel and that we are beginning to make some progress in returning the Cubans to their native land.

#### EFFORTS TO REDUCE OVERCROWDING

Mr. Chairman, as you recall, back in 1982 we began a multi-faceted plan to address the problem of overcrowding. We attempted to find surplus properties wherever possible. We acquired, with the help of this committee, the former Air Force base in Duluth, Minnesota, which is now occupied by 450 inmates. Last year we purchased the former St. Francis Seminary in Loretto, Pennsylvania. We are renovating the buildings which will be occupied by 500 inmates this fall.

In addition, you assisted us in acquiring the former state mental hospital in Rochester, Minnesota. We now have 40 inmates there who are doing the renovation and modernization work. By some time in October or November, the institution will be occupied as a psychiatric and medical, surgical facility for the Federal Bureau of Prisons.

We are continuing to search for surplus properties. We believe it is a cost-effective way to handle the burgeoning prison population and also requires far less time to acquire a surplus facility than to build a new prison.

Mr. Chairman, with the support of this committee, we have constructed additional housing units which you have allowed us to build and expand the capacity at existing institutions. We have built or are in the process of completing 22 additional housing units in different institutions which will expand the capacity in those facilities.

One other bright spot is the new institution at Phoenix funded some 4 years ago. It is nearly completed and is on time and within

the money. The first inmates will arrive in Phoenix next week. We will dedicate it in May and it will be occupied with 500 inmates by in the fall.

Taken together, the three areas (the surplus property, additional housing and the new institution at Phoenix) are going to add approximately 5,900 beds to the Federal Bureau of Prison System within the next several years. Two thousand additional beds will be coming on line during the current calendar year.

In addition, Mr. Chairman, we are expanding the use of Community Treatment Centers or halfway houses for inmates prior to release. During the past 3 years, the average daily population in halfway houses has gone from 1,400 to 2,400 inmates. They stay an average of 120 days. The budget now before you, Mr. Chairman, will provide an increase of 2,700 inmates per day in halfway houses.

Let me assure you, Mr. Chairman, that we are concerned about the problem of overcrowding in the Federal Prison System. I think we are attempting to address the problem in a responsive fashion.

#### OAKDALE LOUISIANA ALIEN DETENTION CENTER

If I may, Mr. Chairman, let me talk about specifics that are included in the budget request for 1986. First, we are asking for 214 positions to activate the Alien Detention Center in Oakdale, Louisiana. As you will recall, this center is designed to assist the Immigration and Naturalization Service to manage the burgeoning number of illegal aliens that they apprehend throughout the country.

The 1,000-bed facility, which will be operated by the Bureau of Prisons, will not solve the problem of overcrowding, however, because it will not take regular federal prisoners but immigration detainees.

We are also asking for 171 positions to open new housing units in 10 institutions. These are the new housing units that I described earlier. They will enable us to bring on line an additional 1,148 beds.

#### BUILDINGS AND FACILITIES

In the Buildings and Facilities budget, Mr. Chairman, you are correct that there has been a reduction. We are asking for \$46 million and a total of 57 positions. This money is primarily to rehabilitate and renovate existing institutions and to add housing units at five facilities.

We are not asking for new institution construction funds in this year's budget. The reason is that we are having great difficulty locating appropriate sites, particularly in the Northeast. The decrease that you cited in your opening statement, Mr. Chairman, is a result of our not asking for additional construction money in 1986 for new prison construction.

#### NATIONAL INSTITUTE OF CORRECTIONS

Let me just close, if I may, by citing the National Institute of Corrections. They are asking for a modest increase and no additional staff in the 1986 budget. As you know, NIC is a small agency of

approximately 41 employees. It is attached to the Bureau of Prisons. I think the Institution does an excellent job and provides a great deal of assistance to state and local corrections agencies across the country, primarily in the areas of training and technical assistance.

**FEDERAL PRISON INDUSTRIES, INC.**

In the Federal Prison Industries' budget, we are asking for 61 additional positions to enable us to increase the number of inmates who work in industries. We currently employ over 9,000 inmates and hope to exceed 10,000 this year with the additional staff. As you know, Federal Prison Industries is a totally self-sustaining corporation. We are not asking for funds to take care of those positions. The 61 positions will be paid for by the profits we generate through Federal Prison Industries' sales.

Let me conclude, Mr. Chairman, by saying that I appreciate very much the support and assistance that you and your colleagues have given us over the past few years. I look forward to working with you during the coming year, and certainly hope you and Mr. Smith will have an opportunity to continue to visit institutions and see for yourself what we are doing, particularly in trying to manage the burgeoning prison population.

That concludes my summary, Mr. Chairman. I will be very pleased to answer any questions you or Mr. Smith may have.

[The prepared statement of Mr. Carlson follows:]

DEPARTMENT OF JUSTICE  
STATEMENT BY THE DIRECTOR, FEDERAL BUREAU OF PRISONS  
NORMAN A. CARLSON  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
THE DEPARTMENTS OF COMMERCE, JUSTICE AND STATE, THE  
JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you to discuss the Federal Bureau of Prisons' budget request for 1986.

We are requesting a total of \$606,067,000 and 10,924 appropriated positions for 1986, a decrease of \$16,014,000 and an increase of 367 positions from current year levels.

Summary of Major Requests

The major thrusts of the Bureau's 1986 budget request include:

- Activation of the 1,000 bed Alien Detention Center, Oakdale, Louisiana.
- Activation of new inmate housing units at ten existing institutions providing 1,148 additional beds.
- Construction of new or replacement housing at seven institutions providing an eventual capacity increase of 286 beds.
- Continuation of the modernization of the U.S. Penitentiaries at Atlanta, Georgia and Leavenworth, Kansas.
- Critical renovation/rehabilitation projects at 14 institutions.

Federal Prison System Overcrowding

Current prison overcrowding coupled with recent and projected increases in the Federal inmate population continues to be the major challenge facing the Federal Bureau of Prisons. Inmate population recently reached an all time high of 33,400, a level 34 percent higher than the rated capacity of existing institutions. Since January 1981, the Federal inmate population has grown by 9,300 or 39 percent. This dramatic increase is clearly the result of recent law enforcement initiatives, primarily in the areas of drug trafficking and organized crime.

The current level of overcrowding is unacceptably high, particularly in view of today's more criminally sophisticated and aggressive federal offenders. The Bureau of Prisons continues to take every possible action within available resources to ensure a safe and humane environment for both staff and inmates.

Inmate Population Trends

Based on our analyses of recent trends, we project that the average daily population for 1985 will be 32,930 and will reach 33,790 in 1986. Our most recent long range plan projects a population of 37,711 in 1990. It should be noted that the Bureau of Prisons' population projections traditionally have been conservative. A comparison of past projections with actual population levels indicates that projected population levels have usually been underestimated. Conservative projections are intentional in order to insure that funds are not needlessly expended in constructing unnecessary prison capacity.

The recently enacted Comprehensive Crime Control Act of 1984 will in all likelihood further increase the inmate population. Two factors exist which make it impossible to estimate the long term impact at this time. First, for the several new Federal offenses created by the Act, we must wait for the full implementation of investigative and prosecutorial guidelines and identification of resources directed at these crimes. Secondly, the sentencing reform provisions of the Act will probably have the most significant long term impact on the inmate population level. Since the new Sentencing Guidelines Commission does not submit its recommended guidelines to the Congress until 1986, it would be premature for the Bureau of Prisons to make predictions at this time. We will continue to collect and analyze data in order to provide predictions of the Act's impact on the Federal Prison System.

As the Subcommittee is aware, it has been necessary to utilize the U.S. Penitentiary, Atlanta, Georgia exclusively for the confinement of Cuban detainees. I am very pleased to report that we have begun the return of these detainees to Havana under the recently negotiated agreement between the United States and Cuba. Ultimately, these planned transfers will significantly reduce the Cuban detainee population. However, as a result of the high number of Cubans currently being sent to Atlanta for revocation of their immigration parole status and the limitation of returning no more than 100 Cubans to Havana each month, it is probable that the population at Atlanta will not show any substantial reduction until late in FY 1986.

During this time, unbudgeted costs incurred in connection with the transfer and overtime expenses required to maintain proper security at the Atlanta Penitentiary will continue to place a strain on Bureau resources.

Efforts to Reduce Overcrowding in the Federal Prison System

As you know, Mr. Chairman, the Bureau embarked on a multi-faceted plan in 1982 to increase the inmate capacity of the Federal Prison System. Our efforts have included the acquisition and conversion of surplus properties to correctional facilities such as the Federal Prison Camp at Duluth, Minnesota, the Federal Correctional Institution, Loretto, Pennsylvania and the Federal Medical Center in Rochester, Minnesota. With funding approved through 1985, we have added or will add new housing units at 22 existing institutions. Finally, the new Federal Correctional Institution (FCI) in Phoenix, Arizona, will be opened this year. We are pursuing the acquisition of a site for the southeastern FCI and are actively seeking to locate suitable sites for the two northeast FCI's.

Taken together, currently approved expansions and those requested in the 1986 budget will eventually increase the rated capacity of the Federal Prison System by 5,900 beds. We have recently completed a new multi-year plan for facilities expansion through 1990. With currently approved projects and those identified for future year budget requests, our objective is to keep pace with the continuing increases in the inmate population and to substantially reduce overcrowding.

Another activity which assists in reducing overcrowding is our Community Treatment Center (CTC) program. Our policy is to use CTC's to the maximum level possible which is consistent with public safety. During the past three years, the Bureau has increased inmate participation in Community Treatment Centers from an average daily population of 1,400 to 2,400 inmates and seeks to further increase the program by 1986 to 2,700 inmates.

Mr. Chairman, I would like to summarize briefly the specific increases we are requesting in 1986.

Salaries and Expenses

For the Salaries and Expenses appropriation, we are requesting \$546,884,000 and 10,826 positions, an increase of \$23,952,000 and 385 positions. The increase in funding includes a net increase of \$7,396,000 in adjustments to the base plus the following program increases of \$16,556,000.

We are requesting \$10,536,000 to provide 214 staff, equipment, supplies and materials for activation of the 1,000 bed Oakdale, Louisiana Alien Detention Center. The Congress approved funding for the construction of this facility in 1982. Construction is proceeding on schedule and we plan to open the facility and begin operations in December of this year. As you will recall, we will operate the Oakdale Center to house alien detainees for the Immigration and Naturalization Service. Consequently, the additional 1,000 bed capacity will not ameliorate overcrowding in our regular facilities.

The 1986 budget also requests \$6,781,000 and 171 positions for the activation of new housing units at ten existing institutions. These resources will enable the Bureau to bring on line an additional 1,148 beds.

The Department of Justice recently transmitted a supplemental request of \$3.1 million to increase subsistence and operations funding for an additional 1,397 inmates. This funding will provide for an increase in average daily population for



the current fiscal year from 31,533 to 32,930. For 1986 we are requesting an additional \$809,000 to provide for a projected daily population of 33,790. As I mentioned earlier, based on the current inmate population, we believe this to be a conservative estimate.

The dramatic increase in the inmate population coupled with substantial escalation in the costs of outside medical care have created funding difficulties in the medical services budget. We are requesting an increase of \$2 million in 1986 to provide inmates with medical, surgical and rehabilitative services through contracts with local community medical facilities when such services are not available at Bureau institutions.

The foregoing program increases are partially offset by one-time program decreases of \$2,250,000 and a proposed reduction in administrative costs of \$1,320,000.

#### Buildings and Facilities

We are requesting \$46,063,000 and 57 positions in 1986 for the Buildings and Facilities appropriation, all in the Modernization and Repair area. Construction funds for one northeast and one southeast Federal Correctional Institution are not being requested at this time because we are still searching for satisfactory sites. Should the situation change, we will consider funding options available at that time.

For Modernization and Repair of Existing Facilities, we are requesting a base

program of \$10,398,000 and 43 positions and program increases as follows:

- Major Renovation/Rehabilitation - \$17,695,000 and Seven Positions. These projects include continuation of the modernization of the U.S. Penitentiaries at Leavenworth, Kansas and Atlanta, Georgia, expansion of the core facilities at two institutions, rehabilitation of utilities systems, food service areas, deteriorated roofs and exterior surfaces and other important repair projects.
- Addition/Replacement of Inmate Housing - \$16,470,000 and Seven Positions. This request will provide for the expansion of capacity (286 beds) at five institutions and for the replacement of substandard inmate housing at two institutions.
- Fire Safety Improvements - \$1,500,000. This request will permit the continuation of fire safety improvements at Bureau institutions. Fire safety engineering surveys have been conducted at some institutions and some deficiencies have already been corrected. The Bureau plans to survey all institutions and the requested funds will be used to correct the highest ranking deficiencies.

National Institute of Corrections

Mr. Chairman, the National Institute of Corrections continues to be an important vehicle for the improvement of corrections at the state and local levels of government. The National Academy of Corrections has provided training for thousands of correctional officers and administrators from all over the nation. We are

requesting \$13,120,000 and 41 positions for the Institute for 1986. This level reflects a net increase of \$14,000 over the current year level, the difference between uncontrollable increases of \$1,514,000 and a one-time program decrease of \$1.5 million.

Federal Prison Industries, Incorporated

As you know, Federal Prison Industries, Inc. is a self-sustaining government corporation which manufactures products for sale to other Federal agencies. The profits from these sales are used to maintain, improve and expand the Corporation's industrial operations and to provide training programs for the inmates. For 1986, the Corporation is requesting 61 additional positions to provide supervision for the expansion of factories at 19 institutions and the addition of new factories at two institutions. This planned expansion will provide job and training opportunities for approximately 1,000 additional inmates. Funding for the staff increases does not require appropriated funds as all expenses of the Corporation are covered by earnings.

This concludes my formal statement, Mr. Chairman. I would be pleased to answer any questions you or your colleagues may have.

## NET BUDGET DECREASE

Mr. EARLY. Mr. Carlson, as I said at the outset, I am impressed with the performance of the Bureau of Prisons, but this statement to me is almost contradictory. First of all, we make the case where the prison inmates have increased by over 2,000 from 1985 to 1986. You have had a 40 percent increase in the last four years. Then you come before us with a budget rejecting a decrease of \$16 million, but an increase in personnel of 367 positions.

I really don't know how you can function like that, unless you are doing it with mirrors. This is a \$16 million cut with an almost 400-man increase. Are we cutting out maintenance and rehabilitation and everything else that represents an ounce of prevention in that it has prevented the outbreaks that we have read about in these prisons. In the past few years you have been relatively or especially good at minimizing the amount of problems in our prisons. This budget doesn't let this Member be of the opinion that you will be able to be as successful as you have been.

Mr. CARLSON. Mr. Chairman, I appreciate your views. I want to assure you that I do share your concerns in terms of our operations. I would like to point out, however, that in the Salaries and Expenses budget, which is the operational portion of the budget, we are asking for a net increase of \$24 million, which includes additional staff.

The decrease of some \$40 million is in the area of new prison construction, and that, as I cited earlier, is a result of several factors, not the least of which is our inability to find sites to locate prisons. Prisons, as you know, are not popular subjects, as was evidenced by The Washington Post article this morning. Everyone believes there is a need for prisons but no one wants them in their backyard. The decrease is in the prison construction area.

## DECREASE IN CONSTRUCTION FUNDS

Mr. EARLY. Even with that, Mr. Carlson, that justifies the personnel increase. Your budget acknowledges the increase, but then the rhetoric is that we have to build more prisons, that the population is going up, that they are going to stay longer, but the budget is decreased by \$40 million for construction. I assume your Bureau is continually looking for new sites. Aren't we being just a little dishonest by not putting the money in there for prison construction?

Mr. CARLSON. Mr. Chairman, I am very much concerned about overcrowding. As I indicated in my summary, the population has far exceeded our expectation, even since we put this budget together. We did not anticipate the increase that we have seen. I think if we find additional sites which are suitable, we certainly will go forward and try to obtain money to construct additional institutions.

I think in the long term there is no question that new prisons are going to be necessary. The issue is the here and now in 1986. The budget you have before you does show the decrease of \$40 million because there is no new institutional construction.

## RETURN OF CUBANS

Mr. EARLY. Mr. Carlson, I am impressed with your diligence regarding the Marielitos being sent back. We are all discouraged that the numbers are so few. I imagine there are numerous lawsuits with every person that you send back. Is there any effort to increase that 100 per month?

Mr. CARLSON. Mr. Chairman, the 100 per month figure was insisted on by the Cubans when they negotiated the agreement. We had tried to get a higher figure but they held firm and said 100 was the maximum that they could absorb into their country at any one time during a month. We are hopeful that if the exchange goes as smoothly as the first trip did—and I made that trip myself—that we may be able to renegotiate that and try to speed up the process. I would like to do so. It would be a tremendous savings to the U.S. taxpayer if we could get them back to Cuba where they belong.

Mr. EARLY. Is there any procedure set up, Mr. Carlson—you may prefer this—for sending the most troublesome back first?

Mr. CARLSON. Mr. Chairman, I am sure any prison administrator would like to get rid of the major problems first, so I suspect that our staff, when they select those who are to go, look toward those who are problems and try to expedite their return to Cuba.

Mr. EARLY. So we are looking at at least two years?

Mr. CARLSON. I would say at least two years.

Mr. EARLY. Eighteen hundred plus 900 in state prisons?

Mr. CARLSON. These are state prisons from all over the country. It is not just confined to the Southeast part of the country. Yesterday, for example, I learned that Wisconsin has over 90 Marielitos as a result of Camp McCoy.

Mr. EARLY. You have the discretion of going to whatever state you choose?

Mr. CARLSON. No, as the states turn them over to us, we accept them in the system. We are working closely with the states to accomplish that as rapidly as possible.

## FEDERAL PAY INCREASE

Mr. EARLY. Mr. Carlson, you are requesting \$7,345,000 in salaries and expense accounts associated with the January 1985 3.5 percent increase granted federal civilian employees. Does this amount represent the total pay requirement for the Bureau of Prisons?

Mr. CARLSON. No, it does not, Mr. Chairman. It represents about 88 percent of the requirement.

Mr. EARLY. And that 12 percent would be the amount you are absorbing?

Mr. CARLSON. We are absorbing \$958,000.

Mr. EARLY. And where is that coming from, construction?

Mr. CARLSON. Basically from positions that have not yet been filled at Phoenix as well as in Rochester and Loretto. We have had some delay in the activations of those institutions. We have made savings in our Salaries and Expenses.

Mr. EARLY. Is there any problem with filling those positions?

Mr. CARLSON. Not when the facilities become operational. Phoenix, as I mentioned, will accept the first inmates next week. There were some salary savings earlier this year.

#### IMPACT OF RESCISSIONS

Mr. EARLY. With all your problems, your rescissions total \$1,358,000 in the Bureau of Prisons. What specific areas will you be cutting expenses in, if the Congress approves this proposal, and would this rescission have a significant impact upon your program operation?

Mr. CARLSON. These are rescissions that we have been requested to make in the administrative area. I am not sure how we are going to do it, but we have been instructed to make those cuts, and we obviously will do the best we can.

Mr. EARLY. So you have been instructed to make the requested rescissions?

Mr. CARLSON. Yes.

Mr. EARLY. I am sure Mr. Smith will take that into consideration. I yield to my chairman.

#### ACQUISITION OF SURPLUS FACILITIES

Mr. SMITH. Bring us up to date on the facilities in Pennsylvania, Oregon, Minnesota, and California.

Mr. CARLSON. Certainly. First of all, in Minnesota, Chairman Smith, the former Duluth Air Force Base Camp is now at nearly full capacity. It will be at full capacity by June 1st. It will eventually have 500, so we are very close to fully operational capacity. We have been able to renovate the Air Force base within the money the committee allowed. As you will recall, the facility didn't cost the Bureau of Prisons anything. You gave us an amount for renovations and that has been used, and very effectively.

In Rochester, the state mental hospital now has 40 inmates. These are inmates who have been sent to do the painting, the cleanup, and other work that is necessary to get ready the work for full occupancy. We will have the surgical and medical units renovated this summer and will be at 500 capacity by some time in early fall.

In Pennsylvania, we did acquire the St. Francis Seminary in Loretto. We bought the facility from the diocese, as you will recall. We now have 80 inmates doing renovation work. We plan to use inmate labor to do most of the work. That is coming along on schedule and will be fully operational by fall.

In Los Angeles, the Metropolitan Detention Center is under design. We have selected the architectural firm. The environmental impact statement is being prepared and we are on schedule. We plan to start the construction sometime later this year and open it sometime in the summer of 1987, approximately June of 1987.

Mr. SMITH. For the record, in each case tell us what kind of a facility we are talking about.

Mr. CARLSON. The Los Angeles facility will be a high-rise pretrial detention facility. It will house pretrial detainees from the U.S. District Court in the Central District of California. Those detainees, as you recall, are now housed at Terminal Island, which is near

Long Beach. It will free up nearly 500 inmate spaces at Terminal Island for sentenced offenders.

The Rochester institution will be a medical-psychiatric facility. The focus will be on medical care using the resources from the Mayo Clinic. The doctors from the Mayo Clinic who are in their medical training will spend their residency with us at that former state mental hospital.

Duluth is a minimum security camp 1 for essentially nonviolent, nondangerous offenders who are serving short sentences. Loretto is the same as Duluth, for nonviolent, nondangerous basically short-term offenders.

Mr. SMITH. In each case put in the record how many inmates, the capacity for how many inmates and the cost.

Mr. CARLSON. I can give you the capacity figure. We will supply the cost figures for the record. The capacity of each one is about 500. We will supply the rest for the record.

[The information follows:]

#### RECENTLY ACQUIRED SURPLUS FACILITIES CAPACITIES/COSTS

	Capacity— beds	Costs (thousands)		
		Acquisition	Renovation	Total
Facility:				
Duluth .....	500	0	\$5,700	\$5,700
Rochester .....	500	\$14,024	10,326	24,350
Loretto .....	460	1,987	2,813	4,800

#### EXPANDABLE FACILITIES

Mr. SMITH. It is 500, but you can go up to what population?

Mr. CARLSON. To give you an example, the facility in San Diego, which is comparable to the one in Los Angeles, runs over 700 inmates, sometimes close to 800, so we will undoubtedly have to crowd the Los Angeles institution almost immediately because of the expanding caseload.

Mr. SMITH. You are building it so you can put additional bunks in?

#### REDUCTION OF COST PER PRISONER

Mr. CARLSON. Yes. These are all being built in such a way they can be expanded to house more than the design capacity.

Mr. SMITH. What you say indicates two things to me. One is that if you can find some kind of existing facility, you reduce very considerably the amount of time that is required to get into the facility, and the other is that the cost per prisoner is much, much less. If we are going to satisfy these needs you are talking about, we have got to find some way to do it at less cost per prisoner. I know you have got minimum standards that you have to meet, but we surely have to find some way to get these prisoners under roof and incarcerated at much less cost than what some of these plans were a few years ago.

Mr. CARLSON. I agree with you, and that is the advantage of the existing facilities. Whenever we can find and convert a surplus Air Force base it is more economical.

Mr. SMITH. Are you getting cooperation from other departments of government on finding facilities?

Mr. CARLSON. Yes, sir. As they are declared surplus, we do have cooperation. The problem, of course, is that frequently other departments will not declare space surplus that we think they should.

Mr. SMITH. Do you have any places that you think are not being used that should be declared surplus?

Mr. CARLSON. There are several that we think perhaps are not being used to the fullest extent, and could be used.

Mr. SMITH. As we did in one case with regard to military property, not in regard to prisons, the Committee could insert a clause in the appropriations bill that would reduce considerably the time required for declaring facilities surplus and that you are acquiring it, if we know where the facility is, and that it is adequate, and that the department that is involved at least doesn't object too strenuously to releasing it. I think if you would provide the Committee with a list of these places where we might acquire some facilities, we might be able to help.

Mr. CARLSON. We certainly will.

Mr. SMITH. That is all I have.

#### SECURITY STAFFING

Mr. EARLY. Mr. Carlson, this requested supplemental, does not include any increase for additional guards for your institutions. With the increase of almost 1,400 in the average daily population in your institutions, won't you have a need for additional correctional officers?

Mr. CARLSON. Mr. Chairman, as you recall, last year this committee added 200 additional correctional officers to our request. The population has continued to increase and I think the inference is obvious.

Mr. EARLY. Of these 200 correctional officers, how many of these have been hired as of today?

Mr. CARLSON. All of them. We allocated those positions as soon as they became available. They have all been filled.

[The information follows:]

#### CLARIFICATION OF CORRECTIONAL POSITIONS

The 1985 budget request included \$1,055,000 for 50 additional correctional officers. The House Committee added another \$4,000,000 to add another 200 correctional officers. In the Senate, 536 positions were added to activate Rochester and Loretto, some of these being correctional officers. In conference, the Congress agreed to add 150 correctional officers to the request as well as 536 positions requested by the Administration and approved by Congress for Rochester and Loretto.

#### REQUEST FOR ADDITIONAL STAFFING

Mr. EARLY. This is one of the few times on this Committee where someone has needed additional personnel and were given the position and were all hired. I think that speaks well of your agency and demonstrate the need for these positions. How many did you



request in your original submission to OMB and the Department of Justice, for the supplemental?

Mr. CARLSON. None in the supplemental, Mr. Chairman.

Mr. EARLY. How many in 1986?

Mr. CARLSON. I believe it was 50 additional correctional officers for existing institutions, in addition to those we have identified for the new housing units.

#### CORRECTIONAL OFFICERS KILLED

Mr. EARLY. Last year, Mr. Carlson, we had some disturbing testimony due to the fact that five correctional officers were killed during the course of the year. Have you had any correctional officers killed this year?

Mr. CARLSON. Mr. Chairman, I am pleased to report we have had none, and I am hopeful that trend continues.

Mr. EARLY. Is the rate or incidence of prison riots or escapes running at average or below average?

Mr. CARLSON. The rate of escapes has actually decreased. The rate of assaults on staff, however, has increased this year, which I believe is a reflection of the types of inmates we are dealing with, particularly the Marielitos and the long-term narcotic traffickers that are coming into our system.

#### ACTIVATION OF OAKDALE

Mr. EARLY. I don't recall this in your testimony. Your 1986 budget request includes an increase of \$17,317,000 and 385 positions to activate the Oakdale, Louisiana, area detection center in new housing units. How much of this amount is for the Oakdale institution, and why is the Bureau of Prisons operating this institution since it will be used to house principally detainees remanded to the custody of INS?

Mr. CARLSON. Mr. Chairman, we are asking for 214 positions and \$10,536,000 for Oakdale. The decision was made some three years ago in the Department of Justice that the Bureau of Prisons would be the more appropriate agency to run a long-term or a detention facility, than the Immigration Service.

The feeling was expressed that we had more expertise and the Immigration Service concurred with that decision. It was not something that was thrust on either organization. It was reached after a lengthy discussion of the respective benefits of operating the facility.

#### ACTIVATION REQUESTS

Mr. EARLY. Will you provide for the record the amount and items requested for each institution, the number of positions for each, and when each institution will be activated. Also, include the lapse rate associated with these positions.

Mr. CARLSON. I will be happy to, Mr. Chairman.

[The information follows:]

Savings Due to Revised Estimates of Activation Dates  
Expansion of Existing Institutions  
(Dollars in thousands)

	1986 Congressional Budget Request			Revised Estimate			Savings	
	Act. Date	Pos.	WY Amount	Act. Date	Pos.	WY Amount	WY	Amount
Oakdale ADC.....	11/85	214	198	11/85	214	98	0	0
La Tuna Camp Housing Unit....	11/85	23	22	11/85	23	22	0	0
Butner Segregation Unit.....	11/85	8	8	11/85	8	8	0	0
Lexington Rehab Bldg to Housing Unit.....	1/86	8	8	1/86	8	8	0	0
Montgomery Housing Unit.....	11/85	26	25	8/86	26	6	19	\$508
Milan Housing Unit.....	1/86	16	12	7/86	16	4	8	242
Allenwood Housing Unit.....	1/86	17	15	7/86	17	7	8	274
Otisville Camp.....	1/86	26	21	7/86	26	8	13	367
Seagoville Housing Unit.....	1/86	24	21	7/86	24	9	12	364
Tucson Housig Unit.....	1/86	13	11	7/86	13	5	6	185
Texarkana Housing Unit.....	1/86	10	9	7/86	10	4	5	174
		385	350		385	279	71	2,114
			17,317			15,203		

## CORRECTIONAL OFFICERS

Mr. EARLY. You requested there be 50 guards in your agency budget?

Mr. CARLSON. As I recall, it was 50.

Mr. EARLY. And there are none in this budget?

Mr. CARLSON. That is correct.

Mr. EARLY. Where would these guards be needed, what areas, Mr. Carlson? Would you need guards or correctional or administrative personnel, and in which geographic areas?

Mr. CARLSON. Mr. Chairman, they would be primarily needed in the higher security institutions, the Level 4 or 5 institutions which are the penitentiary-type facilities. That is where we deal with the most difficult to manage inmates we have in the Federal Prison System.

## CONTRACT COMMUNITY TREATMENT CENTERS

Mr. EARLY. Your budget reflects a proposed reduction of \$2 million for the contract community treatment center programs. Is this a realistic proposal given the fact that the Bureau of Prisons plans to house an average daily CTC population of 2,723 people, which is an increase of 11 percent over 1984?

Mr. CARLSON. I believe it is, Mr. Chairman. As you recall, last year the committee added some \$2.5 million to our total. We are only asking for a decrease of \$2 million, so there will be a net benefit to the bureau of \$500,000, which will allow us to expand the number of inmates in halfway houses by an average of 300 per day.

Mr. EARLY. Mr. Carlson, in your testimony I think you had halfway houses going from 1400 to 2100 and you want to increase them to 2700. Due to the fact that we are having problems with construction, I would think you would try to expedite that particular route. I think that is contrary to this type of reduction.

Mr. CARLSON. Mr. Chairman, the problem is, however, that if we would speed up the number of inmates going out, I am afraid the courts on the front end would expand the length of sentence. The courts are aware that we send inmates to a halfway house for an average of 120 days.

I think that if we made it six or nine months, the judges would merely add it on to the front end of the system so there would be no net impact on the population. That is from my experience. The amount we have asked for is a realistic amount to take care of our needs.

Mr. EARLY. What number would you be comfortable with, Mr. Carlson, in halfway houses?

Mr. CARLSON. The 2,700 I think is a realistic figure that we will achieve in 1986.

Mr. EARLY. Do you have any problems looking at the 1990 goal of 5,900?

Mr. CARLSON. That, of course, is premised, I think, on the expanded prison population we expect by 1990, so it would have to be prorated accordingly. I would have to review that.

Mr. EARLY. Of your 33,862 prison population approximately how many would you be comfortable with putting in halfway houses?

Mr. CARLSON. Mr. Chairman, that is a difficult question, as I am certain you realize. We have a number of white-collar offenders and cases of that type who are not a threat and not violent, but are sent to prison for deterrent purposes. They could be put in the halfway houses and I am certain would probably not commit another crime. I think, however, it would have a negative impact on the operation of the criminal justice system.

Mr. EARLY. Have you ever looked at any alternatives? There is no question regarding your comments on the white-collar offenders and crime. But what about transferring them to different states than the states they are from, and then putting them in the CTC-type of rehabilitation?

Mr. CARLSON. We could, but again it boils down to whether or not the courts are willing to accept that as a realistic punishment for the crime that has been committed. My experience is that when judges feel that a sentence is necessary, they want the defendant to go to a regular institution and not to be in a Community Treatment Center.

#### COMPREHENSIVE CRIME CONTROL ACT OF 1984

Mr. EARLY. At the same time, Mr. Carlson, we can't be all things to all people. The judges can say anything they want. But you certainly have to make some changes. Things are certainly better left to your expertise than mine. But we just can't keep going with a 40 percent increase in four years and the trend still continues. But the judges say one thing and they protect their own skin. There has just got to be some adjustment in the system.

Mr. CARLSON. One positive development I think, Mr. Chairman, is the Crime Bill which the Congress passed. I would hope the Sentencing Commission would follow the mandate, which is to utilize prison space as a scarce resource, and to develop guidelines in such a way that they would consider the impact on prison overcrowding.

Mr. EARLY. I hope that is going to work. I am not particularly enthused about that Mr. Carlson. I think this topic was discussed in Mr. Baer's statement. The Sentencing Commission hasn't even been appointed yet. What is the delay in making the appointments to the Commission?

Mr. CARLSON. I am not aware of the situation. I know that there have not been any appointments made yet.

#### ADMINISTRATIVE REDUCTIONS

Mr. EARLY. This Crime Bill was a bill that on paper was going to solve all the problems. We solve the problems in speech and in writing, but we never do in true performance. That is what is tough about the \$16 million reduction in your budget.

Your budget request also proposes a reduction of \$525,000 for the executive correction and \$1,045,000 for administrative services. Tell us what specific programs these reductions will be taken from and what the impact will be.

Mr. CARLSON. Mr. Chairman, we have not made a determination yet on how we will make those reductions. Those are cuts that have been mandated as part of the Deficit Reduction Act. We have not yet decided how we will allocate those cuts across the system.

Mr. EARLY. How much of the reduction under the executive direction is for the elimination of the initiative to expand legal services to inmates, and why is such a reduction being proposed? Aren't there enough jailhouse lawyers?

Mr. CARLSON. It is a \$250,000 reduction, but that is with an increase last year which this committee gave us. That is the amount you added on last year.

Mr. EARLY. That is right.

Mr. CARLSON. We feel the amount that we have used has been sufficient to enable the inmates to have what I consider to be adequate access to legal counsel.

#### AUTOMATION REQUEST

Mr. EARLY. I understand you are requesting approximately \$1 million to acquire computers and software for your institution's regional offices and the central office. How were the requirements for these machines determined, and what is their intended use?

Mr. HOUK. Mr. Chairman, we do a full requirements analysis whenever we look at automation activities in the Bureau of Prisons, and that is part of our long-range ADP plan. I believe that the acquisitions you are referring to are principally for word processing systems and small personal computers used for financial management and other planning activities. The principal cost increases we are experiencing are for increased use of SENTRY which is our major on-line information system. We reimburse the Department of Justice for data processing services for this system.

Mr. EARLY. What is the relationship between this equipment and the equipment envisioned as a replacement for your existing SENTRY terminal?

Mr. HOUK. There is no direct relationship. We do plan a significant terminal replacement program in future fiscal years, but that is not reflected in this budget request.

Mr. EARLY. Will this equipment in that proposal or subsequent acquisition be compatible with the computer at the Justice Data Center. Will this equipment be able to access the SENTRY system?

Mr. CARLSON. Yes, it will, Mr. Chairman.

Mr. EARLY. Last year the Department of Justice requested funds for a consolidated telecommunications network for the Department. But speaking from the parochial viewpoint of the Bureau of Prisons, are we satisfied at this time with our Inmate Information System? Let me ask Mr. Neill, are you satisfied with this budget request for the computer bid for the Bureau of Prisons and Justice consolidation?

Mr. NEILL. Yes, I am. We are in the process of reassessing our planning for telecommunications and would include prisons eventually, but what we are planning on doing first is meeting with the Treasury Department to come up with the joint requirements to possibly share a system with them.

#### STATUS OF EFFORTS TO ACQUIRE SITES

Mr. EARLY. What is the status of the effort to acquire the Fort Meade site?

Mr. CARLSON. Mr. Chairman, we have given up hopes of that particular parcel. There has been considerable opposition expressed by a number of sources that are familiar with the project. Based on our analysis, we think it is something that is not feasible at this time.

Mr. EARLY. The Minnesota project went so well, Mr. Carlson. Did we do anything to facilitate that in any other area?

Mr. CARLSON. We certainly tried to. As a matter of fact, we referred to that as we made contact with the people that were concerned about the Fort Meade site. There is one difference, however. You will recall Duluth had an unemployment rate of 22 percent, and the jobs that we were able to provide were very attractive to the community, whereas in Fort Meade it is a low rate of unemployment. There is not nearly the attraction of the additional jobs.

Mr. EARLY. Do you find that to be one of the biggest problems?

Mr. CARLSON. Yes, without question.

Mr. EARLY. Two years ago this committee made approximately \$5 million available to you to acquire a site in Oregon which would be converted to a federal prison. What is the status of that?

Mr. CARLSON. We have looked at that site. It has been appraised. We have offered to consider the appraised value. The owners have indicated that is not sufficient. They have an appraisal which is considerably higher, and as a result there has been no progress made. We are, however, looking at other alternatives in the State of Oregon, and hope to come up with a solution within the next few months on that project.

Mr. EARLY. Would you specifically look for high unemployment areas to try to do that?

Mr. CARLSON. I certainly think our experience to date has indicated that that is an advantage to us.

Mr. EARLY. I understand there are provisions in the Comprehensive Crime Control Act which makes it easier for the states to acquire excess federal properties for use as prison facilities. What impact will these provisions have on your efforts to acquire excess federal sites for use as federal prison facilities?

Mr. CARLSON. Mr. Chairman, it would have no impact, because as a federal agency we would have an opportunity before it would be declared surplus. All of these properties are circulated throughout the Federal Government before they are officially declared available for states and localities, so we would still have the first cut at any property.

Mr. EARLY. What is the status of Fort Dix now, Mr. Carlson? Is that still under your direction?

Mr. CARLSON. Mr. Chairman, we still have a small parcel at Fort Dix, which we have been unable to build on because of tremendous community opposition. We acquired that parcel some 10 years ago. The difficulty has been that the local citizens and their elected representatives have been opposed to our building a prison on the site.

Mr. EARLY. What about the State prison that 10 years ago we tried to get; did we turn that back over to the state?

Mr. CARLSON. That has been turned over to the State of New Jersey. We did help the State, as you will recall, and it is now occupied by the State of New Jersey. I am sorry, we were referring to—

Mr. EARLY. No, I wanted to find out additionally what we were doing there.

Mr. CARLSON. We were successful, and the State of New Jersey now operates the former disciplinary barracks, or brig, at Fort Dix.

Mr. EARLY. How many inmates do you have housed which technically are the responsibility of the U.S. Marshals Service?

Mr. CARLSON. Approximately 2,000.

Mr. EARLY. If the States and local governments would house more of these local inmates for the marshals, would that help your overcrowding?

Mr. CARLSON. Yes, it certainly would. It would relieve us significantly of our problem.

#### INCARCERATION OF STATE PRISONERS

Mr. EARLY. Finally, let me ask you, Mr. Carlson, what is the status of the number of State prisoners incarcerated in your facilities? As I stated every year for the last few years, Mr. Carlson, you saved the State of Massachusetts a tremendous problem. No one really got to appreciate it because the problem never happened. But when you transferred those 48 prisoners to other states, it then was divulged that they were going to assassinate the warden. There was tremendous turmoil. I thought that was a perfect example of the Federal Government working with a local government to help.

Mr. CARLSON. Mr. Chairman, we now have some 967 state prisoners in the federal system, and nearly 1,400 District of Columbia inmates. I should point out, however, that we do work with the states on a reciprocal basis, so we have a number of inmates who are boarded out to the various states as well.

An example was last week we helped the state of Idaho. They had a disturbance in one of their prisons and we took the 20 ring-leaders of that temporarily in our system to give them the opportunity to rebuild a cellblock that was destroyed. Whenever we can, we help our colleagues in the state systems. Our crowding prevents us taking large numbers, but it is a role that we attempt to play to assist states whenever we can.

Mr. EARLY. You say you have 969 State prisoners. How many federal prisoners do we have in state facilities?

Mr. CARLSON. Approximately 800.

Mr. EARLY. Do we have an exchange of dollars?

Mr. CARLSON. It is an exchange of dollars right now, Mr. Chairman, although, as you may recall, last year the Department introduced a bill which would allow us to exchange inmates without any exchange of dollars. In other words, on a one-for-one basis, we could take an Idaho prisoner, they could take one of ours, and there would be no dollar transaction. That bill will be reintroduced, I understand, shortly and we hope the Congress will pass it. Now we have to pay the states and they have to pay us. It becomes a tremendous administrative burden to take care of the bookkeeping that is required.

Mr. EARLY. I am now going to conclude with a comment and a question, Mr. Carlson. I really have tremendous reservations about the three suggested rescissions before this committee. You also

have a suggested \$16 million decrease in the budget. But you are coming in here with testimony which shows a steady increase in the stream of population.

We have no evidence to suggest that this trend is going to break. I think you are going to have tremendous problems with this particular budget. I am pleased that at least the personnel seems adequate to address the problems. I do not, however, believe that we should exclude the construction money. I just don't think it is responsible. We will have a few questions which we shall submit and you can answer for the record.

I thank you for your testimony.

[Questions submitted for the record and the answers follow:]



QUESTIONS SUBMITTED BY CONGRESSMAN EARLY

DEPARTMENT OF JUSTICE

Federal Prison System

5% Pay Cut

QUESTION:

You are proposing a reduction totalling \$9,216,000 for a 5% pay cut for Federal civilian employees. Is this the total amount that would need to be restored to the various appropriation items to maintain salaries in 1986 at the 1985 level?

ANSWER:

Yes. For the three appropriations, "Salaries and expenses," "Buildings and Facilities," and "National Institute of Corrections," the amount of \$9,216,000 would need to be restored to fund salaries in 1986 at the 1985 level.

Appropriation Language Change

QUESTION:

You are proposing that the number of law enforcement and passenger motor vehicles which may be purchased for replacement only, be increased from 30 to 94. In addition, you are requesting 15 new vehicles for new facilities instead of the ten that were authorized in 1985. What is the reason for tripling the number of replacement vehicles in 1986 compared to 1985?

ANSWER:

The Bureau's current fleet of 619 vehicles contains 94 passenger carrying vehicles that are already or will be over age by 1986 (using Federal Property Management Regulations replacement criteria). Because past budgets have contained only minimal funding for vehicle replacements, it has become necessary to acquire a large number of vehicles from surplus property lists. Often these vehicles are not dependable and do not operate economically. The increased authorization would enable the Bureau to embark on a system-wide program to upgrade the motor vehicle fleet. The authorization requested for the purchase of 15 new vehicles in 1986 will cover requirements for the new Alien Detention Center, Oakdale, Louisiana as well as the recently acquired facilities at Rochester, Minnesota and Loretto, Pennsylvania for which motor vehicle authorization was not provided in the 1985 budget.

Outside Medical Care and Population Adjustment

QUESTION:

You are requesting an increase of \$2,000,000 to enable the Federal Prison System to obtain medical care for the inmate population through contract arrangements. You are also requesting an increase

of \$809,000 for the increase in the population expected in 1986 compared to 1985. The projected increase is only 367 over 1985. Do you feel this projection is realistic given your underestimation of the increase in 1985?

ANSWER:

As with past projections of inmate population, the Bureau's projection for 1986 is intentionally conservative to insure that funds are not needlessly expended in constructing unnecessary prison capacity. We believe that the Comprehensive Crime Control Act of 1984 will eventually further increase the inmate population. It is not possible at this time to estimate the 1986 or longer term impact of this Act for two reasons. First, for the several new Federal offenses created by the Act, we must wait for the full implementation of investigative and prosecutorial guidelines and identification of resources directed at these crimes. Secondly, the sentencing reform provisions of the Act will probably have the most significant long term impact on the inmate population level. Since the new Sentencing Guidelines Commission does not submit its recommended guidelines to the Congress until 1986, it would be premature for the Federal Prison System to make predictions at this time. We will continue to collect and analyze data in order to provide predictions of the Act's impact on the Federal Prison System.

Support Programs for Inmates

QUESTION:

What do you think of programs like Prison Match? Have these programs worked, what are their sources of funding, and do you think that the Federal Government should consider increasing its support for these types of programs?

ANSWER:

The Prison MATCH (Mothers and Their Children) Program provides a support service to parents who are incarcerated through training, booklets and visiting room programs. This program is funded by grants, private contributions and some Federal Prison System funds. Given the current climate of budget austerity and vital needs in other program areas, it would be difficult to support increased funding at this time for programs such as these.

Buildings and Facilities

Overcrowding

QUESTION:

Your current overcrowding rate is 31%. Based on your estimates which you identify as conservative and your budget request for FY 1986, you expect an overcrowding rate of 20% in 1990. Do you expect to always have some level of overcrowding, and what overcrowding rate do you consider manageable?

ANSWER:

We cannot say with certainty that there will always be some level of overcrowding, however, on the basis of our analyses of recent trends and the potential eventual impact of the Comprehensive Crime Control Act of 1984, we expect overcrowding in the Federal Prison System to continue well into the 1990's. Our most recent long-range plan projects reducing prison overcrowding to a rate of 17 percent in 1990 which we consider a more manageable level.

QUESTION:

If you have sufficient resources to release all eligible inmates through Community Treatment Centers, what would be the expected overcrowding rate in 1990?

ANSWER:

The projected 17 percent rate of overcrowding in 1990 mentioned above, assumes an average daily population in contract community treatment centers of 3,000 in 1990. Our policy is to use CTC's to the maximum level possible consistent with public safety.

Funds for Acquisition of SitesQUESTION:

Do you have sufficient funds in this appropriation account which would enable the Bureau to take advantage of opportunities to acquire sites which could be converted to Federal prison use, and if not, how much do you think would be necessary for this purpose in FY 1986?

ANSWER:

The "Buildings and facilities" appropriation is essentially project specific and therefore non-discretionary. However, in the past when sites suitable for conversion to correctional facilities were available for acquisition, the Bureau, with Congressional concurrence, has reprogrammed funds temporarily from other projects to acquire and renovate such sites. (On several occasions, funds were reprogrammed from projects which were cancelled, e.g., Mt. Laguna, California). This approach is possible because of the typically long lead-time associated with most construction projects. Subsequently, supplemental funding was requested to restore funds to the project from which the funds were reprogrammed.

This approach enables the Bureau to act more immediately to acquire vitally needed additional capacity than would be possible under the regular appropriation process. It is not possible to predict how many sites the Bureau might locate in 1986 that are suitable for conversion to correctional facilities or what the acquisition and renovation costs for such sites might be.

Modernization and RepairQUESTION:

You are requesting a program increase of \$35,665,000 and 14 positions to continue the conversion and renovation of several of your institutions, to enhance living conditions of inmates, to expand certain institutions, to initiate fire safety improvements, to expand your system-wide capacity by a total of 286 bed spaces at five institutions, and to replace housing units at two institutions. Will the increase of 286 bed spaces be adequate to take care of the expected increase in population?

ANSWER:

No. Currently approved expansions plus those requested in 1986 will eventually increase the rated capacity of the Federal Prison System by 5,900 beds for a new capacity total of 30,800 beds. It will take several years to bring all of these capacity increases on-line. At the same time, inmate population is projected to continue to increase. (See pages 8 and 9 of the Buildings and Facilities budget for a comparison of projected population and rated capacity, FY's 1984-1990).

QUESTION:

What was your original budget request to the Department of Justice and to OMB in this area?

ANSWER:

The original budget request to the Department of Justice was \$55,693,000 which included a program increase of \$47,207,000; to the OMB: \$52,052,000 including a program increase of \$41,665,000.

National Institute of CorrectionsQUESTION:

Your budget request for the National Institute of Corrections proposes a decrease of \$1,500,000 reflecting completion of the initiative to improve vocational and basic education programs for inmates. What did you accomplish with these funds?

ANSWER:

At this time not all of the funds authorized for vocational and basic education programs have been expended. For this reason, we cannot state with certainty what has been accomplished until after the funded programs have been completed and evaluated. An evaluation component is a part of the program. Approximately 3,500 inmates will be impacted, 700 educators trained, and 30 technical assistance activities provided within the first year. Two comprehensive guides will also be prepared.

QUESTION:

I note that last year you proposed a similar reduction because you said that the initiative had been completed. The Congress disagreed with your assessment and restored funding for this program. What makes you think that the initiative has been completed this year?

ANSWER:

The Institute did not view the congressional supplement as an on-going appropriation. We are attempting to assess a number of different programs and their delivery system prior to any future funding requests.

QUESTION:

How many state prison systems and how many inmates have benefited from this program? How many institutions and state prison inmates were not reached by this program?

ANSWER:

Unquestionably, there are many unmet educational and vocational needs among the approximate 450,000 prison inmates in the U.S. The Institute is attempting to distribute the appropriated funds in such a manner as to reach the greatest number of inmates possible, recognizing that this supplement is directed at inmates with very basic educational and vocational needs. It is estimated that approximately 32 state correctional programs will be affected by this supplemental.

QUESTION:

In your justifications you note that one of the Institute's emphasis is programs which promote the use of alternatives to incarceration. What are these alternatives and what impact would they have on the overcrowding problem throughout the nation?

ANSWER:A. Alternatives to Incarceration

Alternative programs operate at pre-and post-sentence stages of the criminal justice process. Pre-trial alternatives to detention are citation release, release on recognizance, conditional or supervised release and bail. Post-sentence alternatives to jail and prison confinement include:

- . Fines
- . Community service work orders
- . Victim restitution orders
- . Intermittent confinement (often night or weekend)
- . Split sentences/shock probation -- offenders serve a portion of sentence in confinement and remainder under community supervision
- . Mandatory treatment programs for alcohol or drug abuse offenders

- . Probation/Parole supervision (ranging from low to "intensive supervision")
- . Residential placement as a condition of probation or parole
- . Supervised work release and a variety of supervised or work furlough programs
- . Mandatory supervised release for offenders being released at the end of a prison sentence

B. Potential Impact

The degree to which these alternatives will reduce prison populations is dependent on the rate at which states choose prison or community sanctions as the form of punishment for offenders.

Federal Prison Industries

QUESTION:

In past years we've discussed the success of the Federal Prison Industries. Last year you stated you were holding trade fairs at the Department of Justice and other government agencies in other large cities to acquaint them with the goods that are produced. How is the Federal Prison Industries progressing?

ANSWER:

Since 1983, Federal Prison Industries has held trade shows in Washington, D.C., Atlanta, Denver, Dallas, Fort Worth, and Wichita Falls, Texas. We have experienced excellent results from these trade exhibitions. Our federal agency customers have become more familiar with UNICOR's capabilities of meeting their needs in a wide variety of product and service areas. The increase in business opportunities subsequent to trade show activity has fully justified the expenses associated with the exhibitions. Future shows are planned for Norfolk, Virginia and other locations with significant federal procurement activity.

QUESTION:

I understand that legislation has been introduced, H.R. 365, the Prison Industries Improvement Act, that would allow goods made in federal prisons to be sold on the open market for a profit, and would allow for a certain portion of the prisoners' wages to be deducted for room and board costs, thus reducing prison costs.

In your opinion, Mr. Carlson, would such legislation be a good, cost-effective idea?

(H.R. 365, the Prison Industries Improvement Act - introduced by Bill McCollum (R-Fla.))

ANSWER:

The concept of the Prison Industries Improvement Act is one that we generally endorse. Agencies of the Federal Government provide us with sufficient business to meet our inmate employment require-

ments; further, in the foreseeable future we do not see the need for turning to the private sector for additional business. There are a number of issues regarding the bill that require further study, such as the potential effect on small business, organized labor, and the impact of paying the minimum wage. We feel state correctional systems which have neither the financial resources nor the diversified market of Federal Prison Industries could benefit most from the proposed legislation.

#### Medical Services/Specialized Medical Prison Facilities

##### QUESTION:

How many inmates are you projecting that will require inpatient care or outpatient services that the Federal Prison System will be unable to provide in 1985? When is the Rochester, Minnesota facility expected to be completed? In your opinion, will this alleviate this problem?

##### ANSWER:

Medical projections for 1985, based on a population of 32,000 inmates, are that medical Bureau capabilities will only be able to handle approximately 81 percent of required inpatient admissions. Emergency situations as well as the need for specialty care and sophisticated medical procedures will require that approximately 5 percent of all admissions will need to be referred to contract medical facilities for inpatient care, leaving a remainder of 14 percent waiting for elective admission to a Bureau medical facility beyond 1985.

Approximately 3,040 inmates, or 9.5 percent of the 1985 inmate population will require outpatient services that the Bureau does not have the capability to provide. These cases consist of specialty care requirements, and minor emergency situations that are beyond Bureau medical capabilities and/or are economically inefficient to refer to other Bureau facilities because of travel cost, guard service costs, security considerations, etc.

The Rochester Federal Medical Center is currently projected to begin major medical and surgical operation in early 1986. It is anticipated that Rochester will help alleviate current medical needs. However, the Bureau will still experience a moderate residual amount of inpatient and outpatient unmet medical needs, with resultant referrals to contract facilities, or deferment or elective cases to waiting lists.

##### QUESTION:

In your professional opinion, should we be looking at additional sights or facilities to be devoted specifically to providing medical services to prisoners?

##### ANSWER:

Yes. Additional medical referral center resources need to be evaluated for the Western Region as a first priority, and the Northeast Region as a second priority.

QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

QUESTION:

What programs will be reduced from FY 1985?

ANSWER:

For the "Salaries and expenses" appropriation, funds in excess of Bureau requirements will be reduced by \$2,250,000 in the contract Community Treatment Center program and the Inmate Legal Services program. In addition, an administrative reduction of \$1,320,000 is proposed for Executive Direction and Control and Administrative Services. The proposed five percent in civilian employee salaries of \$9,096,000 is spread across all program areas.

For the "Buildings and Facilities" appropriation, the reduction of \$39,980,000 is the result of fewer construction/renovation projects being requested in 1986 than in 1985. It does not reflect any reduction of funds to existing projects.

QUESTION:

What has been the cost of interning the Cuban prisoners at the Atlanta Penitentiary?

ANSWER:

During FY 1984, it cost approximately \$12,370,000 to house the Cuban detainees at the U.S. Penitentiary, Atlanta, Georgia.

QUESTION:

You noted that, since you can only return 100 Cubans a month, "the population at Atlanta will not show any substantial reduction until late in FY 1986." What is the present population at Atlanta and what percentage of this population represents the Cuban prisoners?

ANSWER:

The present population at Atlanta, including the Federal Prison Camp, totals 2,374. Approximately 80 percent of those inmates are Cubans. The non-Cuban population is used as the maintenance cadre and is largely housed in the prison camp instead of the penitentiary.

QUESTION:

In your statement you noted that the costs of outside medical care require an increase of \$2,000,000 to your medical account. Are any of your federal prisoners covered by insurance? Has insurance coverage been pursued for federal prisoners?



ANSWER:

Because of the diverse administrative requirements, the issue of health insurance for federal prisoners has not been pursued.

A system-wide review and analysis of what various policies and health plans cover would have to be made on an individual case basis.

Preliminary evaluations, in the recent past, concluded that many policies will not pay when the Federal Government is legally responsible to pay for inmate health services.

If health insurance was used, inmates could request elective procedures based on ability to pay, creating a dichotomy between insured versus non-insured in the prison population. The Medical Program's authority on medical matters could be seriously diminished if inmates had to give their consent to use their insurance. In addition, an elaborate accountability procedure would be required to include Bureau fiscal coverage of deductibles, and certification that insurance policies were still in effect and had not lapsed.

QUESTION:

You note that the inmate population is 34 percent higher than the rated capacity of existing institutions. Are you confident that your budget request adequately addresses the needs of this ever-growing prison population?

ANSWER:

With the budget requests through and beyond 1986, the Bureau's objective is to reduce institution overcrowding to a more manageable rate of 17 percent by 1990.

QUESTION:

How many lawsuits were filed by prisoners against the Bureau last year? Are there any statistics on their outcome?

ANSWER:

Approximately 2,500 cases were filed against the Bureau. The government prevailed in about 95%.

QUESTION:

Has the Bureau used private attorneys in the past? To what extent and at what cost?

ANSWER:

The Bureau does not use private attorneys to defend the Agency. In suits against Bureau employees in their individual capacity, it has on rare occasions been necessary to use private counsel paid for by the Department of Justice, as authorized by the Department under 28 CFR §50.15 and 16, paid at the standard rate of \$75 per hour.

## AFTERNOON SESSION

TUESDAY, MARCH 19, 1985.

Mr. SMITH. The Committee will come to order.

Each year we have very few hearings where we need to close the hearing, or a portion of the hearing, due to the fact we are involved with security matters, or matters that have not been litigated. One of them is the Secretary of State; another is the communications and security programs; one is the Federal Bureau of Investigation; and another one is the DEA, or a portion of the DEA, hearing. To close those hearings, we understand the rules require a roll call. I would ask for a roll call to close those hearings or a part thereof.

Mr. O'BRIEN. Do you need a motion?

Mr. SMITH. So move.

Mr. OSTHAUS. Mr. Smith.

Mr. SMITH. Aye.

Mr. OSTHAUS. Mr. Alexander.

[No response.]

Mr. OSTHAUS. Mr. Early.

Mr. EARLY. Yes.

Mr. OSTHAUS. Mr. Dwyer.

Mr. DWYER. Yes.

Mr. OSTHAUS. Mr. Carr.

[No response.]

Mr. OSTHAUS. Mr. Boland.

Mr. BOLAND. Aye.

Mr. OSTHAUS. Mr. Whitten.

[No response.]

Mr. OSTHAUS. Mr. Regula.

Mr. REGULA. Aye.

Mr. OSTHAUS. Mr. Rogers.

[No response.]

Mr. OSTHAUS. Mr. Conte.

[No response.]

Mr. SMITH. It is so ordered. Thank you.

**TUESDAY, MARCH 26, 1985.**

**OFFICE OF JUSTICE PROGRAMS**

**WITNESSES**

**LOIS HAIGHT HERRINGTON, ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS**

**MARK LEVIN, DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS**

**ALFRED S. REGNERY, ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION**

**JAMES K. STEWART, DIRECTOR, NATIONAL INSTITUTE OF JUSTICE**

**STEVEN R. SCHLESINGER, DIRECTOR, BUREAU OF JUSTICE STATISTICS**

**ALLEN J. VANDER-STAA, BUDGET OFFICER, OFFICE OF JUSTICE PROGRAMS**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

Mr. DWYER. This afternoon we will consider the fiscal year 1986 budget request for the Office of Justice programs.

The request is for \$139,300,000. This amount represents a reduction of \$4,220,000 from the anticipated appropriation for the current fiscal year.

We will also consider today a fiscal year 1985 supplemental language change which would transfer \$800,000 from the juvenile justice program to the emergency federal law enforcement assistance program.

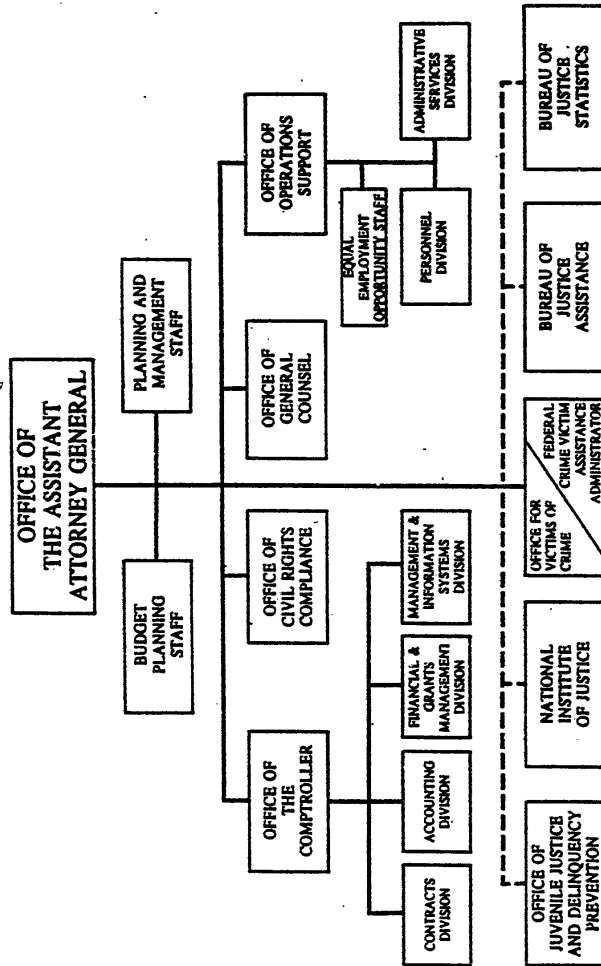
We will insert the justifications in support of the request in the record at this point.

[The justifications follow:]

Department of Justice  
Office of Justice Programs  
Estimates for Fiscal Year 1986  
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# OFFICE OF JUSTICE PROGRAMS



NOTE: DOTTED LINES INDICATE GENERAL AUTHORITY, POLICY COORDINATION, AND ADMINISTRATIVE SUPPORT THAT THE ASSISTANT ATTORNEY GENERAL PROVIDES TO THESE OFFICES.

*William French Smith*  
\_\_\_\_\_  
WILLIAM FRENCH SMITH  
ATTORNEY GENERAL

Office of Justice Programs  
Justice Assistance  
Summary Statement  
Fiscal Year 1986

The Office of Justice Programs is requesting for 1986 a total of \$139,300,000, 312 permanent positions and 326 workyears. This request represents a decrease of \$4,220,000 and a decrease of 22 positions and 12 workyears from the 1985 anticipated appropriation of \$143,520,000, which provides for 334 positions and 338 workyears.

Budget authority is requested to continue six missions: Research, Evaluation and Demonstration programs which conduct research into all aspects of the criminal justice system; Criminal Justice Statistical programs which provide statistical information dealing with crime and the operation of the criminal justice system at all levels of government; State and Local Assistance programs which provide various forms of assistance to State and local criminal justice agencies; Public Safety Officers' Benefits which provide death benefits to the survivors of public safety officers killed in the line of duty; Missing Children to combat the criminal and sexual exploitation of children; Emergency Assistance to respond to situations which exceed the capacity of local law enforcement resources; and the phase out of the Juvenile Justice program.

Research, Evaluation and Demonstration Programs

The National Institute of Justice (NIJ) is the principal sponsor of research on crime and the criminal justice system in the United States, and has broad responsibility for developing improved methods of dealing with major criminal justice problems. NIJ currently administers: 1) a core program of research aimed at the control of crime and the improvement of criminal justice practices; 2) a development program designed to translate policy-relevant research findings into practical programs and policies for use by criminal justice agencies; 3) a field test program which provides for on-site experimentation with newly devised crime control strategies; 4) an evaluation program to provide an early assessment of the effectiveness of novel State and local approaches to criminal justice problems; and 5) a dissemination program which uses a variety of strategies to get important research findings and criminal justice program information to practitioners and policy-makers as quickly and completely as possible. The requested amount of \$19,500,000 provides the same level of funding as appropriated in 1985.

Criminal Justice Statistical Programs

The Bureau of Justice Statistics (BJS) is responsible for all of the major national statistical series and other sources of data concerning crime and criminal justice with the sole exception of the FBI's Uniform Crime Reports. The mission of the Bureau is twofold: to provide senior officials of the Justice Department, the White House, the Congress, and the public with valid and timely justice data and analyses relevant to policy decisions, and to support the emerging capacity of State and local governments to use data as a cornerstone of their criminal justice programs. The Bureau of Justice Statistics is requesting for 1986, a total of \$16,776,000 in program funds. The request provides the same level of funding as appropriated in 1985.

State and Local Assistance

The Bureau of Justice Assistance (BJA) administers the financial and technical assistance program for State and local criminal justice. Eighty percent of the funds appropriated for State and local assistance are available for the block grant program. Block grants are awarded to the States with each receiving a base amount of \$250,000 and the remainder allocated according to relative population. Grant funds may only be used for programs which have a high probability of improving the criminal justice system. Grant funds must be matched on a dollar for dollar basis to assure that the recipient jurisdictions share in the cost of the projects. Federal funds are not used to pay for administrative expenses or for construction, equipment or personnel costs, unless these are a necessary part of an effective improvement program. States and localities are to assume full project costs after three years. Twenty percent of the funds appropriated for State and local assistance are available for the

discretionary grant program. Discretionary grants provide training and technical assistance to grantees and criminal justice personnel. National or multi-state projects and demonstration programs related to the same priority objectives authorized for the formula grants will be funded. The \$67,000,000 requested for both formula and discretionary grants provides essentially the same level of funding as in 1985 because \$64,800,000 appropriated in 1984 could not be obligated until 1985 due to delays in passage of the authorizing legislation.

#### Emergency Assistance

The Justice Assistance Act of 1984 authorizes the provision of funds, equipment, training, intelligence information and personnel to a requesting State, in the event of a law enforcement emergency. The Act envisions a Federal response to situations which exceed the capacity of local law enforcement resources. Assistance requested by a Governor, may be provided when the Attorney General, after consultation with appropriate members of the Federal law enforcement community, determines that a law enforcement emergency does exist. The sum of \$1,500,000 is requested for this purpose.

#### Juvenile Justice Program

No new budget authority is requested for the Juvenile Justice programs. This program was first funded in 1975. In the 11 years of funding, the Federal Government has made awards totaling \$816,000,000 for the various programs authorized by the Juvenile Justice Act. The Administration believes that much has been accomplished in the past 11 years but that it is now time for the states and localities to pick up funding of these programs.

#### Missing Children

This is a new program authorized and funded by Congress in 1985. Funds from this program will be used to combat the criminal and sexual exploitation of children by assisting families, citizen groups, law enforcement agencies and government institutions in a national effort to ensure the safety and protection of children. The request for \$4,000,000 will continue the program at the same level as 1985.

#### Married Cubans

In 1985 Congress appropriated \$5,000,000 to reimburse States for part of the costs of incarcerating Married Cubans who had been originally paroled by the Federal Government. No funds are requested for this purpose in 1986.

#### Public Safety Officers' Benefits Program

The Public Safety Officers' Benefits Program provides a \$50,000 death benefit to the eligible survivors of a Federal, State or local public safety officer whose death results from a traumatic injury sustained in the line of duty. Public safety officers covered by the program include but are not limited to police, corrections, probation, parole and judicial officers and firefighters. The request of \$11,500,000 for 1986 will permit payment of 230 claims.

#### OJP Management and Administration

This activity provides executive direction and control for the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), the Public Safety Officers' Benefits Program, and the Bureau of Justice Assistance (BJA) as well as supplying the full range of support services to all program offices. The staff necessary to phase out the Juvenile Justice Program are also funded from this activity. The request of \$19,024,000, 312 positions and 326 workyears provides a net decrease of 4 positions due to the termination of funding for the Juvenile Justice Program and the addition of staff for the Victims Assistance Act.

Office of Justice Programs

Justice Assistance

Justification of Proposed Changes in Appropriation Language

The 1986 budget estimates include proposed changes in the appropriations language listed and explained below. New language is underscored and deleted matter is enclosed in brackets.]

Justice Assistance

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, (as amended), including salaries and expenses in connection therewith, \$70,311,000, to remain available until expended. Provided, That \$2,500,000 of this amount shall be for a criminal justice assistance program, to be available only upon enactment of authorizing legislation. Provided further, That \$4,000,000 of this amount shall be available to carry out a missing children's assistance program to be available only upon enactment into law of authorizing legislation and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, \$70,240,000, to remain available until expended. In addition, \$5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1984 through September 30, 1985 following their conviction of a felony committed after having been paroled into the United States by the Attorney General. Provided, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1985 a listing of names of such Mariel Cubans incarcerated in their respective facilities; Provided further, That the Attorney General, not later than April 1, 1985, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: Provided further, That the amount of reimbursements per prisoner per annum shall not exceed \$12,000. The obligated and unobligated balances of funds previously appropriated to the Office of Justice Assistance, Research, and Statistics, Law Enforcement Assistance and Research and Statistics appropriations shall be merged with this appropriation].

the Juvenile Justice, Runaway  
Youth and Missing Children Act  
Amendments of 1984, and the  
Missing Children Assistance Act  
\$137,300,000

(Department of Justice and Related Agencies Appropriation Act, 1985).

No substantive changes proposed.



## Office of Justice Programs

## Justice Assistance

Summary of 1985 Changes  
(Dollars in thousands)

Budget Activity	1985 President's Budget Request		Congressional Appropriation Actions on 1985 Request		Reprogramming Approved		Proposed		1985 Appropriation Unobligated							
	Pos.	W.	Pos.	W.	Pos.	W.	Pos.	W.	Pos.	W.						
1. Research, evaluation, and demonstration programs.....	...	\$19,830	...	-430	...	...	...	...	...	\$19,500						
2. Criminal justice statistics programs.....	...	18,394	...	-780	...	-4798	...	...	...	16,776						
3. State and local assistance.....	...	66,818	...	-61,318	...	...	...	...	...	5,500						
4. Emergency assistance.....	...	...	...	67,600	...	...	...	(800)	...	...						
5. Juvenile justice programs.....	...	...	...	4,000	...	...	...	...	...	67,600						
6. Missing children.....	...	...	...	...	...	...	...	...	...	4,000						
7. Public Safety Officers' Benefits Program.....	...	11,500	...	-3,199	...	...	...	...	...	8,301						
8. Merit Cubans.....	...	...	...	5,000	...	...	...	...	...	5,000						
9. Management and Administration.....	278	286	17,237	22	22	839	18	18	798	16	12	(614)	-2,031	334	338	16,843
Total.....	278	286	133,739	22	22	11,812	18	18	...	16	12	...	-2,031	334	338	113,520

## Explanation of Analysis of Changes from 1985 Appropriation Request

## Congressional Appropriation Actions

The Congress restored \$67,600,000 for the Juvenile Justice program and increased resources for administration of the program by \$839,000 and 22 positions. Congress also provided \$5,000,000 for Merit Cubans and \$4,000,000 for the Missing Children's Assistance program. Funding was reduced for the State and Local Assistance Grant program, the Public Safety Officers' Benefits program and the Research, Evaluation and Demonstration program. Congress also reduced the requested enhancement in the Criminal Justice Statistical program by \$180,000 for the Uniform Crime Report program improvements.

## Reprogramming

## Approved

A reprogramming was approved which transferred the crime statistics analysis function and 18 positions from the Bureau of Census to BUS and moved \$798,000 from program to administrative funds.

## Proposed

1. A proposed reprogramming of \$800,000 is for the Emergency Assistance program and is derived from prior year unobligated balances, resulting in no effect on budget authority.
2. A proposed reprogramming of \$619,000 is for 16 positions to administer the Victims of Crime Act program. There is no change in budget authority since funds are from prior year unobligated balances.

## Proposed Resolution

In accordance with Section 2501 of the Deficit Reduction Act, \$2,031,000 is proposed for rescissions in the travel, printing and other services.



Office of Justice Programs  
Justice Assistance  
Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1984 as Enacted		1984 Actual		1985 Appropriation		1985 Base		1985 Estimate		Increase/Decrease	
	Per		Per		Per		Per		Per		Per	
	Fed.	MI	Fed.	MI	Fed.	MI	Fed.	MI	Fed.	MI	Fed.	MI
Research, Evaluation and Demonstration Programs.....	...	\$18,508	...	\$17,565	...	\$19,500	...	\$19,500	...	\$19,500	...	...
Criminal Justice Statistical Programs.....	...	16,809	...	16,793	...	16,776	...	16,776	...	16,776	...	...
State and Local Assistance:												
Formula grants.....	...	51,118	...	...	...	4,100	...	4,611	...	53,600	...	48,989
Discretionary grants.....	...	15,280	...	2,500	...	1,100	...	1,153	...	13,400	...	12,247
Emergency Assistance.....	...	...	...	...	...	...	...	1,500	...	1,500	...	...
Juvenile Justice Programs:												
Formula grants.....	...	43,095	...	41,044	...	42,935	...	42,935	...	...	...	-42,935
Special emphasis.....	...	14,365	...	19,542	...	14,311	...	14,311	...	...	...	-14,311
National Institute of Juvenile Justice & delinquency prevention	...	7,436	...	7,846	...	7,726	...	7,726	...	...	...	-7,726
Technical assistance.....	...	1,804	...	1,568	...	1,804	...	1,804	...	...	...	-1,804
Concentration of federal efforts..	...	900	...	470	...	824	...	824	...	...	...	-824
Missing Children.....	...	...	...	...	...	4,000	...	4,000	...	4,000	...	...
Public Safety Officers' Benefits Program.....	...	12,500	...	9,432	...	8,301	...	8,301	...	11,500	...	3,199
Marital Abuse.....	...	...	...	...	...	5,000	...	5,000	...	...	...	-5,000
Crime Control Programs.....	...	...	...	8,238	...	...	...	...	...	...	...	...
Management and Administration:												
Executive direction & control, DOJ	52	3,195	52	2,889	52	3,321	52	3,360	52	3,360	...	...
Executive direction & control, DOJ	43	1,621	43	1,818	43	2,376	43	2,508	43	2,508	...	...
Executive directions & control, OJP	62	2,555	62	2,578	62	2,640	62	2,682	40	2,072	-22	-610
Administrative services/state & local assistance.....	132	8,166	132	7,075	132	8,536	132	11,798	132	11,680	-118	-604
Total.....	289	197,352	289	160,078	334	193,536	334	196,739	312	196,300	-22	-5,439

OFFICE OF JUSTICE ASSISTANCEJUSTICE ASSISTANCEJUSTIFICATION OF PROGRAM AND PERFORMANCEACTIVITY RESOURCE SUMMARY  
(Dollars in Thousands)

Activity: Research, Evaluation and Demonstration Programs	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount
Research, Evaluation and Demonstration Programs.....	...	\$19,500	...	\$19,500	...	\$19,500	...	...

Long-Range Goal: To increase knowledge about the causes and control of crime, and the efficiency, effectiveness, equity and responsiveness of the nation's law enforcement and justice administration systems and to disseminate such knowledge to Federal, State and local governments.

Major Objectives:

1. To advance the cumulation and synthesis of knowledge about the control of crime and improvement of the criminal justice system through continued support of justice research programs.
2. To evaluate the effectiveness of justice programs and to determine their impact upon the quality of the nation's justice systems.
3. To develop a range of model programs for improving justice practices and procedures.
4. To disseminate the results of research, development, evaluation and technology transfer programs to appropriate audiences.

Base Program Description: The National Institute of Justice is the nation's largest and most comprehensive criminal justice research and development center. As the major national resource for policy-relevant information regarding crime and criminal justice in the United States, the Institute's programs are all designed to improve society's ability to control crime and to assist criminal justice practitioners and policymakers in selecting the most effective solutions to their most urgent crime problems.

Each year, the Institute develops a program plan which outlines the critical policy issues which will be addressed by Institute research and development activities. This plan is the result of an extensive consultation process involving State and local governments, related Federal agencies, criminal justice professional associations, academic researchers, and the Institute's statutory Advisory Board. The specific research, development, testing, evaluation and dissemination projects initiated by the Institute focus on the priority areas described in the plan.

The critical areas which will be receiving particular attention in the coming year include: prison and jail crowding; victims of crime; violent crime and the career criminal; community crime control efforts; improving the adjudication process; improved resource management in the criminal justice system; probation and parole; and Federal, State and local cooperation.

While most Institute projects are executed through grants, contracts and cooperative agreements, a small but effective in-house research capability has been established. This analytic capacity provides for quick-response research projects on important topics of immediate policy-relevant interest. The Institute study on the impact of the exclusionary rule which was cited in the Supreme Court case Illinois v. Gates is a product of this recent innovation.

Institute research projects conducted by external researchers with grant funds are selected primarily through a competitive solicitation process which uses peer review. A small unsolicited research program is also supported in order to encourage particularly innovative approaches to justice problems. The Institute's visiting Fellowship program provides an opportunity for qualified criminal justice practitioners to undertake research of their own design at the Institute's offices, thereby providing staff with an occasion to draw on the researcher's field perspective and operational experience. For all Institute projects, a staff project monitor works closely with the researcher to assure successful completion of the project and to feed project findings back into the planning process.

Based upon research and evaluation findings, syntheses and program models are developed which detail the advantages and limitations of a variety of programmatic options in a given topic area. These products are aimed specifically at practitioners to assist them in deciding which research-based innovations may be appropriate for their jurisdiction. Selected model programs are field tested in several sites and evaluated to determine the likelihood of success if replicated and institutionalized by State and local governments and operating agencies. Training workshops also are utilized in selected areas to acquaint senior operating agency officials with new programs or new research findings with significant implications for day-to-day management of their respective agencies. In response to requests from the field, the Institute also produces and disseminates brief policy papers for use by Governors, state legislators, chief justices, court administrators or local executives on topics of particular concern.

In fulfillment of its Congressional mandate, the Institute operates the National Criminal Justice Reference Service which serves as the principal national and international clearinghouse for the exchange of information on criminal justice issues.

**Accomplishments and Workload:** Selected workload data of the National Institute of Justice is presented in the following table and is succeeded by a narrative account of significant research, evaluation and demonstration project accomplishments.

Item	Estimates			
	1983	1984	1985	1986
Grants and contracts awarded.....	115	120	120	120
Research, development and evaluation projects monitored.....	215	240	245	245
In-house research projects undertaken.....	2	3	3	3
Program models developed.....	7	7	7	7
Criminal Justice Workshops Attendees.....	1,095	1,200	1,300	1,400
Registered Reference Service Users.....	42,000	50,000	60,000	70,000
Documents Distributed through Reference Service.....	490,000	500,000	525,000	550,000

As part of a continuing high-level effort to direct research attention to the most critical criminal justice problems, the National Institute of Justice surveyed more than 2,300 criminal justice administrators to determine practitioner priorities and research needs. Most compelling among the findings of this survey was that respondents at all levels of government and across all geographic regions cited jail and prison crowding as the most pressing problem facing their state's criminal justice system. In addition, improved methods for the investigation and prosecution of narcotics cases was rated quite highly as a critical operation and management need. The Institute has initiated several new research projects to address these issues and will be disseminating useful new information from recently completed projects to assist practitioners in dealing with these pressing problems.

Shortly, the Institute will be publishing a report which builds on the landmark Institute study American Prisons and Jails. This report will: 1) summarize the scope of the current crowding problem, 2) weigh the pro's and con's of construction options, and 3) discuss the strengths and limitations of efforts to affect the flow of prisoners into facilities and policies which alter the length of time served. A related report will detail the issues and trends in correctional facility construction and provide guidelines for minimizing the costs and problems associated with locating, building and operating new institutions.

Preliminary findings from the Institute's evaluation of Illinois' forced prison release program show that some 6,000 prisoners were released at least 90 days earlier than their anticipated release date between 1980 and 1982. The evaluation, conducted at the request of Governor Thompson, also indicates that while crime rates in the state did not increase significantly, the post-release criminality of those released early was as serious as for those with similar records who were held until their regular release date.

In seeking ways to ease the burden on state and local corrections systems, the Institute is examining several innovative alternatives to the traditional corrections model. Chief among these is a broad inquiry into various ways in which the private sector might become involved in correctional programs. Possibilities such as expanded private sector links with prison industries will be explored, as well as increased

contracting with private concerns for the management and delivery of correctional services. These alternatives hold the promise of reducing operating costs, lowering the level of prisoner idleness, and using inmate labor for the generation of payments which could be used to defray the costs of incarceration, pay taxes, provide child support, or financial restitution to crime victims.

Prior Institute research has confirmed the very significant role of narcotics in the commission of violent crime as well as property crime. This close connection has serious implications for the commission of pretrial crime among released defendants who are habitual users of narcotics. In accordance with the considerable emphasis being placed on the problem by State and local officials and by the Department's Regional Drug Task Forces, the Institute is broadening research in this area. For example, the Institute has begun a major experiment in New York and Washington using urinalysis to detect drug use among arrestees. Results from the initial testing in Washington, D.C. showed the presence of illegal drugs in 62% of all arrestees and specifically, the presence of PCP in 30% of all arrestees. The project will examine the links between drug use and the commission of pre-trial crime as a way of improving the pretrial release/detention decision.

In view of this accumulating and previously unconfirmed evidence of pervasive drug use among offenders, other Institute findings regarding the cost of crimes committed by drug users becomes more compelling. Completed research in New York City compiled the monetary value of robberies, burglaries and thefts committed by daily and weekly heroin users. Daily heroin users committed these offenses at a rate of \$21,000 per year. Those who used heroin once or twice a week committed these offenses at a rate of \$3,900 annually. These findings corroborate information from a study in Baltimore which showed narcotics addicts committing 6 times as much crime when they were actively taking drugs than when they were abstaining.

The most severe effects of crime are endured by victims, whose losses or injuries are often overlooked during the exigencies of case processing. In following the lead of the President's Task Force on Victims of Crime, the Institute is giving more attention to the special needs and problems of victims and their rightful role in the criminal justice process. Toward that end, the Institute convened two judges from every State, the District of Columbia and Puerto Rico for a National Conference on the Rights of Victims of Crime. The judges adopted a set of Recommended Practices for their fellow judges that address the fair treatment of victims and witnesses, victim participation in judicial proceedings, victim and witness protection from intimidation and harm, and judicial training on the needs, comforts, and legal interests of crime victims. This ground-breaking Conference has already resulted in major changes in the way victims are treated by the courts in some states. For example, South Carolina judges now require victim impact statements at sentencing and Oregon is devoting its annual judicial education sessions to crime victim issues.

In addition, work has been initiated on a manual of techniques to reduce trauma to child victims and witnesses in criminal prosecution. Historically, children under a specific age have been unable to testify in court solely on account of their age. However, such children, when they are the victims of physical or sexual abuse, are often the only witnesses to the event. Although the criminal courts are processing an increasing number of these cases, often they are ill-equipped to deal with the special problems of children within the criminal justice system. Both prosecutors and victim advocates are seeking ways to obtain children's testimony without incurring additional trauma. A National Institute of Justice study is examining and documenting court reforms such as video-taping the child's testimony, closing the courtroom, creating a "children's courtroom," and appointing a special advocate.

In conjunction with the Department of Education, the Institute has developed and launched a school crime reduction project designed to provide a safer learning environment within existing school resources. Now underway in 44 secondary schools, the program elements include clearly differentiating between disciplinary infractions and criminal events within schools; clarifying the legal rights and responsibilities of school officials regarding criminal incidents; applying law enforcement crime analysis techniques within the school setting; and developing coordinated policies and procedures between schools and criminal justice agencies. It is anticipated that a reduction of serious crime in the schools will contribute significantly to the national goal of excellence in education.

In response to a need for the more efficient use of limited police resources by departments nationwide, the Institute undertook an experiment of alternative ways of responding to calls for police service. Conducted in three cities, this project categorized the types of calls received and developed a response protocol based on the urgency of the situation. Units were dispatched immediately for all emergencies. Departing from common practice however, alternative responses were provided to non-emergency situations. These responses ranged from a delayed dispatch to report completion by telephone. It was found that over 30% of all calls for service could be handled safely in a non-routine fashion. When informed of the type of response they could expect, citizens were quite satisfied with this procedure. These findings have considerable potential for radically changing police deployment practices, and thereby maximizing the effects of their often strained resources.

Based upon a presumption of physical evidence's greater precision, reliability, and freedom from bias, police have been pressured from courts, blue ribbon panels and the media to place more reliance on tangible clues rather than confessions or eyewitnesses. A new Institute study indicates that the odds for clearance of robberies and burglaries are significantly higher when physical evidence is collected and examined. In two of the four test sites, the odds that a burglary (without suspects initially identified) will be cleared is eight times greater. The odds in robbery cases are four to five times greater. Further, arrests which had forensic evidence linking the offender with the scene or victim had a three to five times better chance of resulting in conviction.

In view of growing public and professional concern about the appropriateness and effectiveness of the insanity defense, the Institute has undertaken to examine alternatives which have been proposed or are in effect. Since 1980, ten states have adopted the guilty but mentally ill verdict which allows defendants to be found guilty and given sentences commensurate with the crime, but also acknowledges their mental disabilities and need for treatment. To date, however, little empirical evidence exists regarding the frequency with which this verdict is used or its consequences. The Institute has begun a study on the use of the verdict in all states where it's permitted and will prepare reports for judges, legislators and other policymakers on the practical implications and policy issues related to the use of this alternative way of handling mentally deficient defendants.

Improvements in the management of the National Criminal Justice Reference Service (NCJRS) have resulted in reduced costs and expanded services. Presently, NCJRS also provides services on a cost-reimbursable basis for several other offices in the Department of Justice, and for the Center for Disease Control. The size of the data base continues to expand, from 70,000, items in 1983 to an expected 82,000 documents by 1986. The volume of sales from the NCJRS fee-for-service program has also been increasing. Sales of \$260,000 in 1984 are planned to rise to \$362,000 in 1986. The net income from these sales offset operating expenses. The current Institute cost of operating the Reference Service is under \$3 million per year. That amount should be compared to the \$5 million per year which the Institute was spending before the implementation of a wide range of cost-effective measures.



## Activity: Criminal Justice Statistical Programs

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Criminal Justice Statistical Programs.....	...	\$16,776	...	\$16,776	...	\$16,776

This activity includes resources to accomplish the primary mission of the Bureau of Justice Statistics. These program funds support the interagency agreements with other federal agencies, contracts with profit and non-profit corporations, and cooperative agreements and grants to State and local units of government for the collection, processing and tabulation of original justice statistics.

**Long-Range Goal:** To assist policy and decision makers at the Federal, State and local levels of government by providing for the collection, analysis, publication and dissemination of comprehensive and accurate statistical information concerning crime and the operation of the criminal justice system.

Major Objectives:

1. To collect, analyze, publish and disseminate statistical information on crime and the operation of justice systems to the President, the Congress, the Department, State and local executives and officials, and the public.
2. To maintain and develop an analytic program which will address the implications of national criminal justice statistics for Departmental policy and legislative initiatives.
3. To recommend national standards for justice statistics and to ensure the interstate comparability, reliability and validity of justice statistics.
4. To conduct and support assessments and evaluations regarding methods of gathering, analyzing and disseminating justice statistics.
5. To encourage the development, maintenance, and utilization of State and local governmental organizations and facilities responsible for the collection and analysis of criminal justice data and statistics.
6. To ensure compliance with requirements relating to confidentiality and security of data.

**Base Program Description:** The Bureau of Justice Statistics (BJS) is responsible for all major national statistical series and other data sources concerning crime and criminal justice except the FBI's Uniform Crime Reports. The mission of the Bureau is twofold: to provide senior officials of the Justice Department, the White House, the Congress, and the public with valid, timely, and policy relevant justice data and analyses, and to support the emerging capacity of State and local governments to use data as a cornerstone of their criminal justice programs.

BJS maintains eleven statistical series, including the National Crime Survey, National Prisoner Statistics, State Court Statistics, Annual Jail Survey, Uniform Parole Reports, National Probation Reports, Prison Census, Sentencing Data, Federal Criminal Justice Statistics, State Criminal Justice Statistics, and Capital Punishment. The data from these series are used in answering requests for information from Congress, the White House, the Department of Justice, criminal justice agencies and organizations, academic researchers, the media, and the general public. BJS also publishes a regular series of widely acclaimed bulletins and special reports which disseminate data from the series. The National Crime Survey (NCS), the largest BJS series, is the Nation's principal source of information on crime victimization and the victims of crime, and the third largest survey conducted by the Federal Government. Under the NCS program, interviews are conducted with 135,000 persons in 60,000 households in order to obtain data on the impact, frequency and consequences of criminal victimization on the American public. Unlike the FBI's Uniform Crime Reporting program, NCS includes information on all victimizations, whether reported or unreported to law enforcement officials. The BJS corrections statistics program provides systematic information on correctional populations and facilities gathered from Federal, State, and local governments, and covers the major subunits of the corrections system - probation, jails, prisons, and parole. The overall program consists of five components: (1) annual National Probation Reports; (2) annual Uniform Parole Reports; (3) annual National Prisoner Statistics; (4) annual counts and characteristics of persons sentenced to death; and (5) quinquennial surveys of national samples of prison and jail inmates and censuses of State and local correctional facilities.

Most criminal justice activities in the Nation take place at the State and local levels of government. A primary objective and legislative mandate of BJS is to support the States in the accurate and timely collection, aggregation, and analysis of State level criminal justice data. This objective is accomplished primarily through the support of Statistical Analysis Centers (SACs) which coordinate State criminal justice statistical activities among State, county and city agencies. Through extensive Federal funding over the years, BJS has created 43 State level agencies capable of providing improved State data for BJS analyses and improved UCR data to the FBI.

#### Accomplishments and Workload

Actual and estimated accomplishments concerning this decision unit are presented in the following table:

Item	Estimates	
	1983	1984
Major statistical series maintained.....	11	11
Statistical and Related Reports prepared for.....	56	64
BJS by the Bureau of the Census and other contractors		
State statistical projects supported .....	76	61
Standardized information systems documentation and software disseminated.....	580	512
Major statistical program evaluations and redesigns conducted.....	2	2
		2
		103
		378
		--

Item	Estimates		
	1983	1984	1985
Number of requests for data sets and documentation filled by original justice data archive.....	370	500	475
Number of information and technical assistance requests filled under BIS supported programs.....	1767	1337	1662
(1) Statistical reports prepared by the Bureau of the Census are shown as reports prepared by BIS staff beginning in 1985			

During 1984, the major statistical series which form the basis for BIS statistical reports were maintained. The Report to the Nation on Crime and Justice published in October 1983, was another major conduit for the presentation of data generated in the major BIS statistical series. This report is being evaluated, updated, and will be published again, if resources permit, in 1986.

During 1984 MCS-based publications included an annual report on victimization; bulletins, The Severity of Crime (January 1984) and Households Touched by Crime (May 1984); and special reports, Criminal Victimization in the United States: 1971-1982 Trends (September 1983), Family Violence (April 1984), and The Economic Cost of Crime (May 1984).

In 1984 BIS initiated the National Corrections Reporting Program, which gathers information on the characteristics of all persons entering and exiting prisons, and provides detailed data on offenses, sentence lengths, and time served in prison.

During CY 1983, data were collected for the Survey of Inmates of Local Jails and the Census of Local Correctional Facilities. Detailed information on offender characteristics was gathered from interviews with nearly 6,000 inmates. Facility characteristics were acquired from 3,358 local jails. These were prepared for analysis in 1984. During 1984 a comparable data collection effort was undertaken to acquire in-depth information on the characteristics of State prisons and State operated community-based corrections facilities. Additionally, during 1984, the Jail Sample Survey was mailed to approximately 1,160 local correctional facilities to obtain current information on facilities and inmate populations. The corrections data series have produced a wealth of BIS publications distributed among annual reports, bulletins and special reports. Bulletin topics have included: Prisoners in 1983 (April 1984), Capital Punishment (July 1984), Probation and Parole (September 1984), Prisoners Mid-Year 1984 (October 1984), and Jail and Jail Inmates (November 1984). Special Reports have included: Current Figures in Crime (June 1983), Evaluations of Incarceration (April 1984), Analysis of 1981 Prison Admissions and Releases (September 1984), and Incarceration and Detention (October 1984).

In the area of judicial statistics, support continued for the State Court Statistics Project, resulting in the preparation for publication of the 1979 and 1980 reports on annual state court caseload statistics. Most important, The Business of the State Trial Courts was published and disseminated, the first attempt to provide substantial discussion and analyses of data on case load compositions and trends. In addition, Court Case Management Information Systems, a monograph on model statistical reporting elements and reporting forms, was also published and

distributed. An analysis of felony case processing in 28 jurisdictions was continued using data from the Prosecutor's Management Information System (PRODIS); the report will be published by the end of 1984. Finally, a special report on the current state of indigent defense programs (Criminal Defense Systems: A National Survey) was published in August 1984.

The initial phase of the major BUS program in Federal statistics was fully implemented during 1984. Under the program, data from the FBI, Executive Office for U. S. Attorneys, Administrative Office of the U. S. Courts, and Bureau of Prisons were merged into the first integrated data base tracing Federal cases from arrest through prosecution, adjudication and corrections. Under the 1983 pilot effort, the data base focused on 1979 transactions. During 1984, the data base was expanded to include data from additional investigative agencies (e.g., DEA) and to incorporate longitudinal data covering the four-year period 1979 - 1982, inclusive. The data base, which will be updated annually, now permits analysis of immediate and long term issues associated with Federal criminal justice policy development and administration. The following major reports on key Federal issues were also prepared during 1983 and 1984 utilizing the newly established data base: Federal Drug Law Violators (February 1984), Bank Robbery: The Federal Justice Response (June 1984), Electronic Fund Transfer and Crime (February 1984), and Habeas Corpus (March 1984). A compendium tracing Federal data by case category, Federal district, justice process and time period was issued. A study which described victim/witness legislation and reviewed the implications of such legislation for data collection needs and procedures was released. A comprehensive compendium of victim/witness legislation was prepared, as were reports on state privacy legislation, overall data quality standards, and intelligence policy.

BJS has continued comprehensive assessments of the Nation's two leading statistical series concerning crime: Uniform Crime Reporting (UCR) program and the National Crime Survey (NCS). The UCR study, co-sponsored by BJS and the FBI, issued its final Phase I Report in October 1983. The Report traced the history and evolution of the UCR program from its inception in 1929, documented the current operating system utilized by the FBI, and set the stage for Phase II of the study. The contractor, guided by a steering committee, now has defined alternative futures for the UCR in Phase II, which is scheduled for completion in January 1985.

In 1984 the NCS Redesign Consortium continued its in-depth examination of NCS. It has successfully addressed a number of important issues, the more significant of which are the following:

- A number of innovative strategies for eliciting victims' recall of crime victimizations have been developed and are currently undergoing final testing and refinement. This work was instrumental in the rapid drafting of the Washington Metropolitan Area Survey of Crime Victimization conducted in 1983 by BJS in response to a Congressional request.
- An innovative design for longitudinal data collection and file preparation was completed, which will allow the NCS to collect systematic data - hitherto unavailable - on both the long-term consequences of crime victimization and the criminal justice system's response to victimization. This design awaits testing by the Bureau of the Census, prior to implementation.
- Questions have been designed and tested which will allow the NCS to provide more complete measures of the risk factors involved in occupational and other life activities. The data collected in response to such questionnaire items will provide more reliable information to individual citizens regarding crime avoidance than has heretofore been available.

- Questionnaire items have been developed to allow measurement of vandalism by the MCS.
- Discontinuities between MCS and UCR data have been studied and suggestions for adjustment and reconciliation have been advanced. Procedures to link MCS and UCR data geographically have been developed with the cooperation of the UCR staff at the FBI and have been tested in several states in FY 1983 and FY 1984.
- Efforts are underway to enhance the utility of MCS data to State and local users by developing State, county, and self-representing Standard Metropolitan Statistical Areas aggregate files and by developing statistical models to estimate local-area victimization dynamics. During 1984, BJS made awards to five States to support newly-created SACs, provided partial support to 29 established SACs serving as clearinghouses for statistical information, and funded twelve cooperative programs with SACs for analysis of specific issues in criminal justice. There are now 43 operational SACs. In addition, data were obtained from the SACs for use by BJS in multi-state analyses of specific aspects of criminal justice in the States. These analyses resulted in the publication of a report, *Time Served in Prison*, in June 1984 and the start of work on reports dealing with sentencing practices and recidivism. During 1984, BJS provided modest funding to four States to maintain the quality of their UCR reporting to the FBI.

In late 1984, the ten year development of the Offender-Based Transaction Statistics (OBTS)-began bearing fruit. Four States provided data which resulted in the BJS bulletin *Tracking Offenders* (November 1983). Data from five States for two calendar years, 1980 and 1981, were obtained and published in the second *Tracking Offenders* (December 1984) bulletin. These two bulletins were very well received nationwide and have encouraged other States to volunteer their participation in future releases of this new series. In addition, the data were released through the Criminal Justice Data Archive to researchers at the State and local levels to assist them in their justice improvement studies.

In 1984 the Bureau had underway nineteen external research projects funded on a competitive basis. These projects are typically low cost with short turnaround times and high policy relevance. It is envisioned that most will result in BJS Special Reports in the near future. Among the projects funded are studies of crime in schools, plea bargaining, costs of the exclusionary rule, optimum procedures for habeas corpus petition processing, modeling criminal careers, patterns of career criminal recidivism and types of offenders and their arrest rates.

Activity: State and Local Assistance	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	NY	Pos.	NY	Pos.	NY	Pos.	NY
State and Local Assistance.....	...	\$5,500	...	\$5,764	...	\$67,000	...	\$61,236

This budget activity provides formula and discretionary grant funds to assist states and localities in carrying out effective criminal justice improvement programs.

**Long-Range Goal.** To provide financial and technical assistance to states and localities to enable them to implement programs with a high probability of improving the criminal justice system, with emphasis on violent crime and serious offenders; and to provide assistance to public and non-profit agencies for the purpose of conducting education and training programs, providing technical assistance, carrying out national or multi-state projects, and demonstrating new programs.

**Major Objectives**

1. To implement, through formula grants to the states, programs that have a high probability of improving the criminal justice system, with emphasis on violent crime and serious offenders.
2. To develop and implement national or multi-state projects that focus upon improving the response to violent crime, serious offenders, and the victim.
3. To develop and implement demonstration programs that, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with monies from other sources.
4. To provide education and training for criminal justice personnel.
5. To provide technical assistance to recipients of formula and discretionary grant funds.
6. To establish and maintain, in cooperation with the states, a system of performance reporting on the activities conducted and results achieved under the formula and discretionary grant programs.
7. To administer the formula and discretionary grant programs with a minimum of red tape and delay for grant recipients.

**Basic Program Description.** This decision unit deals with the problem of crime--especially violent crime--and its effects on the victim. Despite recent declines in the crime rate, crime remains a serious problem in America, prominent in the minds of citizens and immune from quick or easy solutions. State and local governments bear the brunt of crime-fighting responsibilities. It is the thrust of the programs contained in this decision unit to provide Federal aid to support state and local efforts and to offer Federal leadership in achieving safer communities, an improved criminal justice system, and fair play for victims.

The Justice Assistance Act of 1984 signed by President Reagan on October 12, 1984, establishes two new grant programs: a program of criminal justice formula grants for state and local governments; and a program of discretionary grants for public and private non-profit agencies. Each of these programs is described below.

The formula grant program provides grants to the states for state and local programs that fall within one of the 18 purposes listed in the Act and that have a high probability of improving the criminal justice system, with emphasis on violent crime and serious offenders. Formula funds will be used for programs such as career criminal programs that target serious repeat offenders; community crime prevention activities that

involve the community and law enforcement in cooperative anti-crime efforts; STING programs that disrupt illicit commerce in stolen goods and property; programs that improve police operations such as the Integrated Criminal Apprehension Program (ICAP); programs that assist victims and witnesses; and others that meet the purposes and criteria of the Act. In addition, up to ten percent of a state's formula grant award can be used for innovative programs. It is estimated that in total about 600 individual state and local projects will be implemented.

Formula funds will be apportioned among the states according to population after each state receives a base allocation of \$250,000. States must distribute to local governments a portion of their allocation that is equal to the local government share of total state and local criminal justice expenditures. States must also assure that priority is given to those jurisdictions with the greatest need. Federal formula funds will be matched dollar for dollar by state and local funds, assuring a true shared investment in the improvement activities. Projects can receive formula grant support for four years prior to states and localities assuming total funding responsibility.

The discretionary grant program is designed to complement the formula grant program. Under the Justice Assistance Act, twenty percent of the total amount of funds appropriated for formula and discretionary grants (Parts D and E of the Act), are reserved for discretionary programs. Priorities for discretionary grants are determined annually by the Bureau of Justice Assistance, after a 60-day public comment period. Discretionary grants may be made to both public and private non-profit agencies and are to be used for (1) technical assistance, education and training; (2) national and multi-state projects; and (3) demonstration programs. Grants may be awarded for up to 100 percent of total project costs.

Discretionary grant support of technical assistance, education and training activities provides indispensable assistance to criminal justice agencies and personnel in implementing improved criminal justice practices and assuring the effective installation of formula and demonstration programs. Priority will be given to TA, education and training activities that directly support formula grant programs with the remaining resources used to support demonstration programs, national and multi-state programs, and general TA, training and education needs.

Discretionary grants will also support projects that are consistent with the formula grant purposes but that can only be undertaken on a national or multi-state basis. Emphasis will be given to national crime prevention initiatives (such as the public education program "Take a Bite Out of Crime"), programs to help crime victims, and programs to combat family violence.

Discretionary grants will also be used to support a limited number of demonstration programs at the state and local level. These demonstration efforts allow new and promising criminal justice improvement strategies to be demonstrated and evaluated. It is estimated that four (4) programs will be initiated, with four or more sites selected for each. Successful demonstration programs may be among those programs certified by the Bureau in future years as eligible for formula grant funding.

These two interrelated grant programs (formula and discretionary) provide needed Federal assistance to implement criminal justice improvements at the state and local level, and to continue to identify new and effective methods for curbing crime.

Accomplishments and Workload. Since the formula and discretionary grant programs were not authorized until October, 1984 no awards are anticipated until the latter part of 1985. All Governors were notified of the formula program in December, 1984. Proposed formula grant regulations were published in the Federal Register on January 24, 1985 for a 60-day comment period, and will be published in final by no later

then April 30, 1985. After receipt of the States' grant applications, program and financial reviews will be made. It is expected that 53 formula grants will be awarded, and that these formula grant awards will result in subgrants for about 600 state and local improvement projects. Discretionary grant priorities are under development and will be published in the Federal Register for comment by March 1, 1985.

In addition to these essential steps preparatory to speedy and effective implementation of the new grant program, a three-year award in the amount of \$2.5 million has been made to the National Center for State Courts for the purpose of improving state court management. This award was specifically mandated in the 1984 Appropriation Act.

Technical assistance, education and training activities will support these formula grant projects. Program Briefs have been prepared as technical assistance guides for state and local governments on 11 programs certified by the Bureau and additional Briefs will be prepared as new programs are certified. Approximately 2,500 of these Briefs will be distributed. A variety of TA approaches will be used, including the use of practitioners from one jurisdiction to help those in other jurisdictions. Approximately 30 on-site TA visits are anticipated to assure that local recipients have the help they need to implement programs effectively, and approximately 50-60 training workshops/seminars will be conducted. TA will also be provided to support demonstration and national programs funded by discretionary grants. It should be noted that TA will be provided in those areas that the States indicate there is a specific need, therefore we will not know the specific areas which will be addressed until the formula grant applications have been received.

Several National or multi State projects and demonstration programs will be implemented in the areas of crime prevention, career criminals, violent crime and victim assistance. One of these, the National Citizens' Crime Prevention Campaign ("Take a Bite Out of Crime") will disseminate an estimated 500,000 pieces of crime prevention literature; generate over \$50 million annually in free advertising time and space; and stimulate the involvement of additional states, communities and businesses in crime prevention activities. Other national projects will include efforts to implement the recommendations of the President's Task Force on Victims and the Attorney General's Task Force on Family Violence.

Technical assistance will be provided to states and localities to aid them in and administering federal funds. Emphasis will be placed on reporting on the activities and results achieved. Each recipient of formula and discretionary monies will be asked to report on specific indicators of performance. This performance reporting system will enable the following kinds of data to be aggregated and analyzed:

- o Number of "career criminal" prosecutions and convictions.
- o Number of victims and/or witnesses provided assistance.
- o Number of citizens involved in crime prevention activities such as citizen patrols and neighborhood watch.
- o Number of substance abusers completing treatment.
- o Dollars paid and hours worked providing community service or direct victim service as part of a juvenile restitution program.
- o Number of arrests and convictions as a result of STING programs.

**Program Changes:** This request restores the formula and discretionary grant programs to the 1984 level. Since the Justice Assistance Act authorizing these two new programs was not enacted until October 1984, funds appropriated in 1984 for this purpose were not used until 1985. With the carryover of 1984 monies into 1985 there was no need to appropriate significant new funds in 1985; instead, a token amount of \$5.5



million was appropriated to indicate continuing Congressional interest in the program. Because the Congress was aware that the disbursement of funds would have to await authorization, it took into account 1984 appropriations enacted but still unavailable when decisions were made on the 1985 funding level. The amount requested for 1986 is \$2,390,000 less than the total available in 1985, which was the carryover from 1984 and the 1985 appropriation. The request provides \$53,600,000 for formula grants to the states and \$13,400,000 for discretionary grants.

Activity: Emergency Federal Law Enforcement Assistance	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	NY	Perm.	NY	Perm.	NY	Perm.	NY
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
Emergency Federal Law Enforcement Assistance.....	...	...	...	...	...	\$1,500	...	...

Long-Range Goal: To provide financial and technical support to assist states in responding adequately to law enforcement emergencies.

Major Objectives:

1. To assist states in providing an adequate response to uncommon law enforcement situations which are, or threaten to become, of serious or epidemic proportions, when state and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law.
2. To provide a rapid and coordinated Federal determination of state eligibility for assistance.
3. To assure a coordinated Law Enforcement response to emergencies and to avoid unnecessary Federal involvement in matters primarily of state and local concern, including planning activities and the enforcement of laws associated with scheduled public events.

Base Program Description: Natural disasters and crime epidemics strike states and localities arbitrarily and without warning, often exceeding the capacity of law enforcement resources to protect life and property, and to enforce the law. Over the past few years, Federal law enforcement assistance has been required by many states and localities, including Seneca County, New York, to provide adequate law enforcement during the demonstrations at the Seneca Army Depot; Atlanta, Georgia, to provide an adequate response to the child murders; the State of Florida to provide an adequate response to the South Florida drug problem; the State of Washington to provide an adequate response to the devastation of Mt. St. Helens; Miami/Dade County, Florida, to provide an adequate response to the major civil disturbance following the "Mobuffie" case; the State of Alabama to provide an adequate response to the situation created by Hurricane Frederick; and the State of New Mexico to provide an adequate response to the riot at the state prison.

Assistance, in the past, has included technical assistance, training, personnel, equipment, intelligence information, and funding. The specific funding that has been a part of these assistance efforts has generally taken the form of an LEAA/OMARS grant-in-aid. These grants have varied in size, in accordance with the scale of the emergency.

It is clear from the Act and its legislative history that certain situations are viewed as appropriate for emergency law enforcement assistance. Equally clear is the firm intention to avoid unnecessary Federal involvement or intervention in matters which are primarily of state and local concern. To this end the Act excludes assistance for planning or other activities related to crowd control for general public safety projects and assistance for a situation requiring the enforcement of laws associated with scheduled public events. Thus, the high law enforcement costs associated with political conventions and international sporting events should be borne by the localities that sought them.

The Act authorizes the Attorney General to receive requests from state chief executives for designation of a state or local jurisdiction as a law enforcement emergency jurisdiction. Once submitted, the application is to be approved or disapproved within 10 days. The Attorney General will make his determination to approve or disapprove the application, after consultation with appropriate members of the Federal law enforcement community. If the Attorney General approves the application, the Federal law enforcement community will proceed to provide appropriate equipment, training, intelligence information, and personnel.

Accomplishments and Workload: Since program operation, under this activity, can not begin until early 1985, there are no accomplishments at this time.

It is expected that in 1985 no fewer than three and no more than twelve applications for emergency assistance will be received by the Attorney General.

Prerequisite staff work will include: the preparation and publication of rules and regulations; the structuring of procedures to facilitate emergency meetings of appropriate members of the Federal law enforcement community; and, the establishment of procedures for staff-level application review.

Staff work required to administer the program will include: assistance in application preparation; application review; recommendations to the Attorney General and Assistant Attorney General; grant administration; financial administration; and, assistance coordination.

Past experience indicates that three or fewer emergency situations could exhaust the appropriation, potentially limiting some responses to "no cost" assistance by Federal personnel. This situation will require more intense staff coordination.

Program Change: A supplemental transfer request will provide \$800,000 for this activity in 1985 from prior year unobligated balances. The 1986 request of \$1,500,000 is an annualization of this amount.

Activity: Juvenile Justice Programs	1985 Appropriation				1986 Base				1986 Estimate				Increase/Decrease			
	Anticipated															
	Perm.				Perm.				Perm.				Perm.			
	Pos.    WY    Amount				Pos.    WY    Amount				Pos.    WY    Amount				Pos.    WY    Amount			
Juvenile Justice Programs.....	...	...	\$67,600	...	...	...	\$67,600	...	...	...	...	...	...	...	...	-\$67,600

**Long-Range Goal:** To aid in the prevention, reduction, and treatment of juvenile crime and delinquency and to improve the administration of juvenile justice by providing financial and technical support to State and local units of government, public and private agencies, organizations and institutions.

**Major Objectives:**

1. To facilitate, through provision of technical/financial resources and national leadership:
  - a. A 75% reduction in the number of status offenders and non-offenders held in juvenile detention and correctional facilities within three years from the date that each State/territory began participation in the Juvenile Justice and Delinquency Prevention Program.
  - b. Removal of all status offenders and non-offenders from juvenile detention and correctional facilities within five years from the date that each State/territory began participation in the JJDP Program.
2. To develop and implement a nationwide strategy for achieving by 1985, a 75% reduction in the number of juveniles held in adult jails and lock-ups and for achieving, by 1989, removal of all juveniles from adult jails and lock-ups, in all States, and territories participating in the JJDP Program.
3. To facilitate separation of all juveniles found to be delinquent or status offenders from detention or confinement in any institution in which they have regular contact with adult persons incarcerated for criminal offenses.
4. To develop knowledge regarding juvenile delinquency and related deviant behavior including serious and violent juvenile crime among youths, which can be effectively used to prevent, treat and reduce delinquent and deviant youth behavior.
5. To use knowledge acquired through applied research to the development of programs which prevent juvenile crime, offer alternatives to the system and improve the administration of juvenile justice.
6. To disseminate knowledge acquired through research, data collection, and synthesis to the juvenile justice community.
7. To develop and support training programs for juvenile justice and alternative system practitioners and citizens involved in volunteer efforts.
8. To replicate, on a nationwide basis, programs and strategies which have been proven through research, demonstration, and evaluation to be effective in the reduction and control of juvenile delinquency, including serious/violent juvenile crime.
9. To provide for the development and support of new approaches, techniques and methods with respect to juvenile delinquency programs, in particular violent juvenile offenders.

10. To provide technical assistance to State and local governments, and other service providers, on the development and implementation of programs, related to violent juvenile crime, while at the same time addressing the issues of deinstitutionalization, separation, and jail removal.

Base Program Description: The Formula Grant Program represents 64% of the total amount appropriated for Juvenile Justice and Delinquency Prevention. This program provides funds to states and territories on the basis of population under the age of 18. To receive its share of funds, a state or territory must submit an annual plan that meets the criteria of the act. The law requires that the priority of expenditures for these funds must be to provide alternatives to incarceration of status offenders and separation of juveniles and adults in institutions. In 1984, 53 states and territories participated in the program. The non-participating states were: Nevada, Wyoming, North Dakota, and South Dakota.

The National Institute of Juvenile Justice and Delinquency Prevention (NIJDP) within the OJDP, awards grants and contracts implementing a broad range of applied research to add to the knowledge base regarding the causes and correlates of juvenile crime and delinquency. The data gained is used in designing and refining OJDP's discretionary grant programs, which are also evaluated by NIJDP. In addition, NIJDP is authorized to develop, conduct and provide for training programs. The Institute also, serves as the information collection synthesis and dissemination center for the Office and a mechanism has been established to gather information on the nature and extent of delinquency, justice system operations, and program information. The principal method of disseminating information, data, statistics, and program information is through the National Criminal Justice Reference Service.

The Special Emphasis program has been structured and funded in ways which call national attention to distinct juvenile justice issues. Specific performance standards are set for delivery of services. Each initiative has been funded as a group of projects, with emphasis on overall program goals as well as specific project objectives. Sizeable grants are made to permit comprehensive planning, and program planning, design and implementation are coordinated with the NIJDP and the Formula Grants and Technical Assistance Divisions.

Technical assistance is delivered in accordance with workplans which are developed by the recipient and the provider, and approved by OJDP. The delivery methods that are used include on-site consultation, documentation, service brokering, workshops, training, and cluster meetings. In carrying out its coordinating functions, OJDP works closely with the Coordinating Council. The office provides staff assistance for the Coordinating Council. In addition, OJDP awards grants and contracts to support activities of private nonprofit groups and interagency efforts which lead to increased coordination of Federal juvenile programs and policies.

Accomplishments and Workload:

Item	Estimates		
	1983	1984	1985
1. States and territories participating in program .....	52	53	53
2. States in full compliance with deinstitutionalization provisions....	44	50	51
3. States in compliance with separation requirements.....	34	41	46

Item	Estimates		
	1983	1984	1985
4. States with established, adequate monitoring systems.....	52	53	53
5. New Special Emphasis Initiatives funded.....	5	3	...
6. Special Emphasis Initiatives continued.....	5	3	...
7. Inter-agency agreements entered into.....	7	6	...
8. Number of discretionary grants awarded.....	87	95	...
9. Instances of delivery of on-site technical assistance.....	883	939	750

Since enactment of the Juvenile Justice and Delinquency Prevention Act of 1974, the provision of Federal technical and financial resources has enabled participating States to undertake a number of system-wide improvements. The Formula Grants Program has had a significant impact on rates of incarceration throughout the United States.

Fifty of the States participating in the program have achieved full compliance with the statutory mandate to deinstitutionalize status offenders and non-offenders, in practical terms, this means that nearly 200,000 non-ordinal juveniles have been removed from inappropriate institutional confinement, leaving approximately 22,000 in confinement in participating States.

Some examples of OJDP's major funding initiatives are:

Eight sites were funded in 1982 in Part II of the Violent Juvenile Offender Program with a third year grant anticipated in 1985. Major objectives include: testing a set of theoretically-based intervention strategies aimed at preventing violent juvenile delinquency at the neighborhood level; testing the capability of neighborhood-based organizations to mobilize neighborhood residents for the purpose of influencing the responses of local socializing institutions and justice systems towards violent and potentially violent youth; and, increasing the knowledge of factors associated with violent juvenile crime, which can be used to aid in the design and implementation of future programs and policies aimed at reducing violent youth crime. A single neighborhood-based organization (NBO) or a consortium of NBOs have contractual responsibility for carrying out the program. Violent Crisis Intervention, one of the mandatory components, increases neighborhood communication and coordination with law enforcement agencies around conditions which have potential for contributing to violent behavior of youth, and diffuse violent activity. Other mandatory components are institutional mediation, development of family support networks, and a youth skill development component. The eight funded sites are expected to become progressively independent in their ability to identify, analyze and resolve problems associated with violent juvenile crime at the local level and transfer the skills, information, and resources that are developed in this initiative, to the residents of their neighborhoods.

The Habitual Serious and Violent Juvenile Offender Program is a prosecutorial program that targets youth who exhibit a repetitive pattern of serious delinquent behavior for more intensive prosecutorial and correctional intervention, thereby reducing the propensity to sustain a

original lifestyle and thus increasing public safety. The program is based on the Law Enforcement Assistance Administration's Career Criminal Program, which sought to intensify the prosecution of adults who had established a consistent pattern of serious and violent criminal behavior. This program design reflected an approach which has proven to be both continuous and consistent in addressing the career offender. Major objectives of the program are: to increase the consistency of the juvenile justice system in holding youth accountable for their actions, and to develop and implement an enhanced diagnostic assessment process for determination of individual youths' treatment needs. Projects funded under this program will expedite the preparation and presentation of habitually serious and violent juvenile offender cases in which these offenders frequently commit robbery, first-degree burglary, forcible sexual offenses, aggravated assault, and homicide. All projects will develop treatment modes designed to foster rehabilitation of these habitual juvenile offenders and their reintegration into society.

Serious Habitual Offender/Drug Involved (SHO/DI) is designed to focus on the juvenile habitual offender and also the problem of drug related crimes. The program is based on the idea that the police, prosecutors, courts, aftercare agencies, social agencies and community groups must work closely together to focus on two major areas of community concern--serious crime and drugs. The program utilizes an already established law enforcement organizational development process (The Integrated Criminal Apprehension Program, ICAP) to facilitate and institutionalize a more focused "system" effort to: identify, arrest and prosecute serious habitual juvenile offenders; improve knowledge about drug pushing, drug abuse and drug related crimes; and establish a close working relationship between police officials, prosecutors, judges, aftercare agencies and community groups concerned with juvenile serious habitual offenders and drug problems.

The Private Sector Corrections Initiative for Chronic Serious Juvenile Offenders tests the implementation of private sector correctional intervention for chronic serious juvenile offenders. Development of this effort began in the fall of 1983. It was undertaken because of the emergence of successful private sector correctional efforts that have not been previously evaluated. Major objectives of the program are: to document the impact of innovative private sector corrections projects vs. more traditional corrections programs; to document current impediments to the utilization of innovative private programs; and to identify effective management and/or programming techniques being utilized by private contractors. Projects will be funded with 1984 and 1985 funds for an expected three year period to impact on the recidivism of chronic serious juvenile offenders. Projects funded under this initiative are expected to implement a multi-phased intervention from secure care or a wilderness experience through reintegration into the community. Their interventions must incorporate the following program elements: a thorough diagnostic process; phased program and individualized planning; low ward to staff ratio; a continuous case management system; and intensely supervised reentry into the community.

The Permanent Families for Abused and Neglected Children project will establish effective means of providing training and technical assistance to address substantive legal, procedural and social issues relating to the nation's children living in foster care and the need to recognize the benefit of providing these children with permanent homes. A part of this program utilizes the Court Appointed Special Advocate (CASA) volunteers.

Program Changes: A reduction of \$67,600,000 is requested for 1986. The accomplishments section of this activity clearly shows that the major objectives of the Juvenile Justice and Delinquency Prevention Act have been met. One of the primary purposes of the Act was to deinstitutionalize status offenders by diverting them from the judicial system and out of secure detention facilities and into community-based

non-judicial settings. Fifty States have achieved full compliance with this provision. We believe that the States which now participate in the program will continue to deinstitutionalize without the Federal government's money, and will be able to do so more successfully without the unyielding and strict requirements of Federal law. Each state has a different set of circumstances and, without the need to comply with Federal mandates, will be able to adjust its programs to meet its own local problems and conditions. Since the funds QJDP provided to States were insufficient to cover the full cost of deinstitutionalization, the individual States showed a commitment to deinstitutionalize status offenders in order to participate in the program. More than Federal money, in other words, was required for the States to join the program. With the termination of future QJDP funding there is no reason to believe that the States will now retreat from their commitment, with the exception of perhaps amending the statutes to more nearly conform to local conditions.

The JDP Act also provides that in order to participate in the program, delinquent juveniles shall not be held in institutions in which they have regular contact with adults, (Section 223 (a) (13)). Those States participating in the program have made sufficient progress under this section to deem these separation requirements an almost total success. The Federal government has awarded \$816,000,000 in the past eleven years for juvenile justice programs or projects. There will always be programs and projects which can improve the juvenile justice system but the Department believes it is now time for the States and localities to fund such projects if they are of sufficient priority locally. It should also be noted that States and localities can use Formula Grant funds from the State and Local Assistance program to continue juvenile justice programs which have been proven effective.

#### Activity: Missing Children

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.
	Amount	Amount	Amount	Amount	Amount	Amount

Missing Children..... \$4,000 ... \$4,000 ... \$4,000 ... ..

Long-Range Goal: To reduce the incidence of crimes against children, particularly kidnapping and sexual exploitation and to improve the criminal justice, social services and treatment system which are responsible for dealing with these crimes when they occur.

#### Major Objectives:

Ensure that there is effective coordination among all Federally funded programs related to missing children.

Establish and maintain a national resource center and clearinghouse to:

- provide technical assistance to local and State governments, public and private non-profit agencies and individuals in locating and recovering missing children;

- coordinate public and private programs to locate and recover missing children;
  - nationally disseminate information on innovative missing childrens' programs, services, and legislation; and
  - provide technical assistance to law enforcement agencies, private non-profit agencies, and individuals in the prevention, investigation, prosecution and treatment of the missing or exploited child case.
- Periodically conduct national incidence studies to determine the actual number of children reported missing each year, the number of children who are victims of stranger abductions, the number of children who are victims of parental kidnappings, and the number of missing children who are recovered each year.
- Compile, analyze, publish and disseminate an annual summary of research currently being conducted on missing children.
- Prepare an annual comprehensive plan for assuring cooperation and coordination among all agencies and organizations with responsibilities related to missing children.
- Provide a program to establish and maintain a national toll-free telephone line where individuals may report information regarding the location of missing children.

Base Program Description: The public and the criminal justice community have become increasingly concerned about runaways and other missing children. Alarming numbers of cases of abduction, sexual abuse, sexual exploitation and murder of children, are being found.

This problem is national in scope and extensive. It has been estimated that between 1,300,000 and 1,800,000 children are missing at least temporarily each year. A survey of police reports of missing children in 45 states in 1981 estimated 1,500,000 missing children annually; 1,000,000 runaways or "throwaways", 150,000 victims of parental kidnapping and 20,000 - 50,000 children who disappear each year and whose cases remaining unsolved by the end of the year. A survey to determine the number of unidentified dead indicates that there are about 3,000 cases annually. Many of these are children.

The National Center for Missing and Exploited Children was funded by the Office of Juvenile Justice and Delinquency Prevention and established to address these difficult issues and to assist families, citizen groups, law enforcement agencies, and other governmental institutions in a new national effort to ensure the safety and protection of our children.

The first year of funding for the Missing Children Program will be 1985. Other than additional funding for the National Center, we are currently contemplating a number of additional activities including training, technical assistance and education programs but specific plans have not yet been identified.



#### Accomplishments and Workload:

This is a new budget activity and the first year of appropriation is 1985. Therefore, no workload and performance summary data are available. In 1984, juvenile justice funds were used to establish a National Center for Missing and Exploited Children. The Center will undoubtedly receive a substantial portion of the funds from this budget activity.

During its first year of operation it is expected that the Center will:

1. Provide technical assistance on site to 500 State, local and private agencies.
2. Provide 12,500 instances of technical assistance over the phone to individuals, groups, and private, State and Local Government agencies.
3. Distribute 40,000 copies of various information packets.
4. Collect information from the toll free telephone source and distribute it to the appropriate law enforcement agencies. We anticipate about 10,000 calls in the first year of operation.
5. Develop prevention and education programs and materials for parents, schools, law enforcement agencies, communities, volunteer organizations, and other local, State and federal institutions.

#### Activity: Public Safety Officers' Benefits Program

1985 Appropriation	1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.
Anticipated						
NY	Amount	...	NY	Amount	NY	Amount
Pos.	...	...	Pos.	...	Pos.	...
Public Safety Officers' Benefits Program.....	...	\$8,301	...	\$8,301	...	\$11,500
		...		...		...
		...		...		\$3,199

Long Range Goal. To provide a death benefit of \$50,000 to survivors of Federal, State and local public safety officers who have died as a result of personal injury sustained in the line of duty.

#### Major Objectives:

1. To pay eligible claims within two weeks of the filing of a fully documented claim.
2. To issue determinations on ineligible claims within four weeks of the filing of the fully documented claim.
3. To conduct an appeal hearing within 60 days of an appellant's request.
4. To issue the appeal determination within 30 days of the official close of the appeal hearing.

**Base Program Description.** This decision unit addresses the problem of inadequate death benefits for the eligible survivors of Federal State and local public safety officers who die from injuries received in the line of duty. P.L. 94-130 (42 U.S.C. 3796) authorizes a \$50,000 death benefit when a Federal, State or local law enforcement officer, fire fighter, prison guard, or judicial official dies, in a duty status, as the direct and proximate result of a traumatic injury. If a widow and eligible children survive, the widow receives \$25,000 and \$25,000 is apportioned among the children. If there are no eligible children, the widow receives the full \$50,000. Dependent parents are eligible for the death benefit when a widow and/or eligible children do not survive the deceased public safety officer.

Generally, the PSOB program staff receives a death report within one week of the public safety officer's death, usually from the employing agency. Claims are initiated by the PSOB staff when the death report is received. Employing agencies generally take from 75-90 days to file a complete claim. Eligible claims are paid within two weeks of being filed and documented; ineligible claims are processed within four weeks of being filed and documented.

When a claim is denied, appeal instructions are provided to the claimant. Appeals are heard within 60 days of the claimant's request and decisions are rendered within 30 days of the official close of the appeal hearing. Hearing officer denials may be appealed to the Director. Once an appeal is heard by the agency and the denial affirmed, the claimant may appeal directly to the U.S. Claims Court. Claims entering the Federal court system may take from 6 months to 2 years or more to resolve, depending on how rapidly the court and the claimant's attorney respond to statutory and procedural requirements.

**Accomplishments and Workload:** Actual and estimated accomplishments of the Public Safety Officers' Benefits Program from 1983 through 1986 are presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
Claims Initiated.....	237	259	300	300
Claims Closed <sup>a</sup> .....	289	230	290	290
Agency Appeals Requested.....	18	10	20	20
Agency Appeals Closed <sup>a</sup> .....	16	12	15	15
Court Appeals Initiated.....	4	0	1	1
Court Appeals Closed <sup>a</sup> .....	3	1	2	2

<sup>a</sup> Explanation: Figures include newly initiated claims and appeals as well as active claims and appeals carried over from a previous year.

Claim processing objectives have been met in that the average eligible claim was paid within two weeks of completed filing, and the average ineligible claim was closed within four weeks of certified documentation.

The number of public safety officer death claims which were found eligible during the period 1979-1985 follows:

Fiscal Year	Claims Paid	Amount Paid
1979	238	\$12.9 million
1980	234	\$11.7 million
1981	269	\$13.45 million
1982	217	\$10.85 million
1983	214	\$10.7 million
1984	188	\$9.4 million
1985	230	\$11.50 million (estimated)

The following is a breakout of claims paid by type of public safety officer:

	1982	1983	1984
Law Enforcement Officers.....	152	160	134
Fire Fighters.....	56	43	44
Corrections Officers.....	7	6	8
Others.....	2	5	2

Program Change: The Comprehensive Crime Control Act of 1984 contains a provision which includes coverage of Federal Public Safety Officers under the Act. We do not know the extent of new claims which will result from this change. However, we expect them to add from 20 to 40 new claims to the total now received.

It should be noted that the number of claims paid each year has ranged from a high of 269 to a low in 1984 of 188. Although the number of deaths has declined from the initial years, the number of deaths did not decrease in 1984 but in fact is higher than the number reported in 1983. This will result in an increased number of claim payments in 1985. We anticipate payment of about 230 claims in 1985 and 1986.

The amount paid in 1984 was \$3,100,000 less than the amount appropriated. In addition to this amount, \$806,000 was carried over from prior years making a total of \$13,306,000 available to pay claims. In 1985 the House/Senate Conference Committee reduced available funding for OJP programs by earmarking \$5,000,000 for a one-time assistance program to reimburse States for the incarceration cost of Harrel Owens. This action resulted in a reduction of \$3,199,000 from budgeted PSOB funding of \$11,500,000. Thus the amount of new budget authority in 1985 for this activity is \$8,301,000. If we add the carry-over amount of \$3,906,000 to new budget authority we arrive at a total of \$12,207,000. Since we expect to pay \$11,500,000 (230 claims) in 1985 we will have a balance of \$707,000 to carry forward into 1986. When added to the new budget authority request of \$11,500,000 a total of \$12,207,000 will be available. Since we also expect to pay about 230 claims in 1986, we will end the year with only \$707,000. In view of the unpredictability of the number of claims which will be filed, we believe it prudent to carry over a small amount. The \$707,000 of projected carryover will only cover 14 claims and this number could easily occur in 1985 or 1986.

Activity: Mariel Cubans

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
Mariel Cubans.....	...	\$5,000	...	\$5,000	...	...	...	-\$5,000

Major Objective: To award grants to States for their expenses for the incarceration of Mariel Cubans in State facilities.

Base Program Description: In the 1985 appropriation act, Congress provided \$5,000,000 for the purpose of making grants to states for their expenses by reason of Mariel Cubans having to be incarcerated in state facilities for terms requiring incarceration for the full period October 1, 1984 through September 30, 1985 following their conviction of a felony committed after having been paroled into the United States by the Attorney General. It is estimated that approximately fourteen states will participate in this program. Although we can not be positive at this time, it is assumed that the states of Florida, Arkansas, Wisconsin, and Pennsylvania will participate, as holding camps originally existed in each state. In addition, the states of California, New Jersey, New York, Texas, Nevada, Arizona, Illinois, Louisiana, Massachusetts, and the Commonwealth of Puerto Rico may be included as participating states. In order to participate the Governor of a state must certify by February 1, 1985 a listing of Mariel Cubans who require incarceration for 1985. Each state will then receive a pro rata share of the \$5,000,000. No state can receive in excess of \$12,000 per prisoner.

Program Change: This was a one-time appropriation and no funds are requested for 1986.

Activity: Crime Control Programs

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
Crime control programs.....	...	...	...	...	...	...	...	...

This activity provides for expenditures from programs which are not authorized by the proposed Justice Assistance Act but which were authorized by preceding legislation. The programs have been terminated and require no new budget authority in 1986. However, this activity is used to reflect obligations of prior year funding.



16. To monitor all active grants, contracts and interagency agreements.
17. To prepare annual reports as required by the Justice Assistance Act.
18. To close out grants and contracts within 180 days of their end-date.
19. To develop and administer a program which provides grants to eligible crime victim compensation programs of 35% of amounts awarded during the preceding year.
20. To develop and administer a program which awards grants to states to provide victim assistance programs.
21. To develop and administer a program which provides services to victims of Federal crimes.
22. To process and determine eligibility of claims for payment of benefits under the Public Safety Officer Benefit program within two weeks of receipt of complete claims documentation.
23. To provide the full range of support services to the program offices.

**Base Program Description:** The Office of Justice Programs consists of the National Institute of Justice, the Bureau of Justice Statistics (BJS), the Office of Juvenile Justice, the Bureau of Justice Assistance, and the Administrative Offices which provide support to the program offices. The functions and responsibilities of the four program offices are described in the budget activities for those offices and therefore are not repeated here. It should be noted that although this Agency has the same number of major programs, the staffing level of the Bureaus and offices comprising the Office of Justice Programs has declined from 454 in 1961 to 326 in 1985. This staff reduction of 28% has occurred throughout all parts of the Office of Justice Programs and has resulted in a very lean organization.

Included in the 326 workyears for 1985 are 18 which were transferred from the Bureau of the Census to BJS in 1984. These positions constitute the Crime Analysis staff which was funded by BJS through a reimbursable agreement with the Bureau of the Census. The transfer of this analytic function and the personnel associated with it from the Bureau of the Census to the Bureau of Justice Statistics will improve productivity and cut costs by virtue of direct linkages between the analysts and BJS's policy research and public information programs. BJS, as the agency ultimately responsible for the output of this analytic effort, is now in a position to exercise more immediate control than was possible with employees geographically, administratively, and organizationally remote.

During 1984, BJS staff managed more than 48 cooperative programs to enhance the capabilities of the States to collect and analyze criminal justice statistics for their own purposes, and for submission of State-level data to BJS for national compilations. BJS staff analyze these data and prepare reports. BJS also has underway 19 specialized statistical analysis projects funded competitively. These projects are typically low-cost with short turn-around times and high policy relevance; most will result in BJS Special Reports in the near future. Among the projects funded are studies of crime in schools, plea bargaining, costs of the exclusionary rule, optimum procedures for habeas corpus petition processing, modeling criminal careers, patterns of career criminal recidivism and types of offenders and their arrest rates.

The BJS in-house analytic capability was expanded in 1984 to comply with the legislative mandate to "provide information to the President, the Congress, the Judiciary, State and local governments, and the general public on justice statistics." The Report to the Nation on Crime and Justice, a comprehensive statement of crime in the Nation and the operation of the justice system, was written and edited primarily by BJS staff. The staff-produced monthly bulletins continued to release statistical information from major BJS surveys and censuses in a timely and understandable manner. Bulletins have received wide acclaim in both the print and electronic media, and from the public. Overall the number of publications produced by BJS staff during 1984 is nearly double the number produced in 1983.

A major accomplishment in the administration of the National Institute of Justice has been the considerable increase in staff productivity. While the size of the Institute's program budget has remained stable since 1981, the number of authorized workyears has been cut by one-third. In spite of these staff reductions, the number of grants awarded and projects monitored have increased. For example, in 1982 the Institute had 34 monitors making an average of 2.6 new awards and monitoring 6.5 active projects each during the year. In 1984, the number of monitors declined to 23 but the average number of new awards rose to 5.2, and the average monitoring load increased to 10.4 active projects each. These increases in productivity have been achieved while also maintaining the integrity of the award and monitoring process. In fact, the scope of competition for the Institute's solicited research programs has been expanded, and staff have greater involvement in the design and conduct of priority research efforts.

In addition to the increased monitoring workload and the recent involvement of staff in intensive in-house research, staff have also become much more active in the broad dissemination of research findings. Several staff members have written articles for major newspapers and magazines describing Institute research or have provided detailed information to the print and electronic media for coverage of criminal justice issues. These efforts have contributed to a more complete understanding of the nation's complex criminal justice problems by policy-makers and the public at large.

Several attempts to improve the cost-effectiveness of the Institute's investment in research have also been initiated. One such effort is aimed at the further mining of data bases collected under previous Institute grants. Original data collection is a very costly element of field research. Therefore, to the extent practicable, the Institute is encouraging research designs which include the secondary analysis of existing data sets. To test the feasibility of this approach, the Institute awarded six grants of approximately \$10,000 each to researchers who would conduct new research on data sets contained in the Institute's data archive. The results of this test have been most encouraging and expansion of this policy is expected.

Several improvements in the Institute's formal dissemination mechanisms also have been initiated. Greater emphasis has been placed on tailoring the content and formats of publications and conferences to meet the specific needs of busy criminal justice executives and policy-makers. For example, the Institute no longer routinely publishes lengthy and esoteric research reports. Rather, while such reports are made available to researchers on a loan basis, the pertinent policy-relevant research findings are summarized and presented to practitioners in brief, readable publications at much less cost to the Institute. During the past three years, the Institute has reduced its printing costs by nearly \$200,000.

At present there are 53 states and territories participating in the Juvenile Justice Formula grant program. The only non-participating states are Nevada, North Dakota, South Dakota and Wyoming. Phase-out activities will begin in 1986 and continue through 1987 and 1988.

During the past year the Formula Grants and Technical Assistance Division responded to 750 requests for technical assistance from numerous state and local agencies and private organizations. Efforts range from short-term assistance to meet an immediate need to longer term help to plan and implement comprehensive strategies.

In 1984 research was initiated on several major issues in Juvenile Justice: Physical and sexual exploitation of children, relationship of foster care and delinquency; and the identification and improvement of prosecutorial and correctional strategies for controlling juvenile crime.

In 1984 the Special Emphasis Division developed and administered 3 new programs and 3 continuation programs.

Training programs initiated in 1984 have provided training to approximately 6,000 professionals in the juvenile justice system. The areas of concentration have been the serious and violent juvenile offender, community-based programs, law related education, and training for a diverse professional community to encourage the maximum utilization of scarce resources.

An Office for Victims of Crime was established to insure that the recommendations of the President's Task Force on Victims of Crime were implemented. This office initially focused on three areas: The development of training guidelines for law enforcement and other criminal justice personnel in victim assistance matters; model legislation for Victim Assistance; and the establishment of a national resource center for victims.

The Comprehensive Crime Control Act established a crime victims fund into which all Federal criminal fines, penalty assessments and forfeited appearance bonds are deposited. The fund is limited to \$100,000,000 annually. Funds are to be used to make awards to eligible compensation programs and to States for the support of eligible crime victim assistance programs. A supplemental transfer in 1985 provided 16 positions and 12 workyears to develop and administer these programs.

The Office of Justice Programs also provided staff support to the Attorney General's Task Force on Family Violence. The Task Force was created by the Attorney General in September 1983 to examine the nature of family and domestic violence, particularly focusing on violence against children, spouse abuse and mistreatment of the elderly. It has reviewed national, state and local efforts, both government and private, which address the problem of domestic violence. Hearings were conducted in major cities across the Nation and the report of the Task Force was made public in September 1984.

The effectiveness and efficiency of the Public Safety Officers' Benefits program is best reflected in the recognition that it has received from the public agencies it serves. The program and staff have received many citations and letters of appreciation for the timely and responsive service delivered by the PSOB staff. Eligible claims are now paid an average of nine days after receipt of all required claim determination documents.

The Justice Assistance Act signed into law by the President on October 12, 1984 established the Bureau of Justice Assistance to administer block and discretionary grant programs, as well as the Public Safety Officers Benefits program and the Prison Industry Enhancement program. The Bureau has also been assigned a lead role in implementing the Emergency Assistance provision of the Act and managing the surplus property program authorized by Chapter VII of the Comprehensive Crime Control Act of 1984.

A major accomplishment to date has been the organization of the new bureau. Formal organizational plans have been developed, position descriptions prepared, internal procedures drafted, and staff hired. In addition, considerable work has been done to implement the programs with the Bureau's purview. The following reflects concrete accomplishments as well as target dates for full implementation:

All Governors as well as the Chief Executives of all major cities and counties were notified in December 1984 of the new block program.



- Proposed block grant regulations were published in the Federal Register in mid-January 1985 for a 60-day public comment period and are expected to be finalized by April 1, 1985.
- "Program Briefs" were prepared on 11 specific programs identified by the Bureau as eligible for block grant assistance and will be distributed to States and localities by April 1, 1985.
- Initial block grant awards will be made by July 1, 1985.
- Priorities for discretionary grant programs are expected to be announced for public comment by March 1, 1985.
- Guidelines for implementing the Emergency Assistance provisions of the Act will be drafted by February 1, 1985.
- Guidelines, application forms, review procedures and certification criteria were developed for the Prison Industry Enhancement program and up to eight (8) new sites will be certified by September 30, 1985.
- Guidelines were issued to implement the program to reimburse States for incarcerating Mariel-Cubans and awards will be made by Spring 1985 to approximately 14 States.
- Guidelines and procedures were developed for implementing the Surplus Property provisions of the Comprehensive Crime Control Act.

Accomplishments and Workload: The following table reflects some of the major accomplishments of the Office of Justice Programs.

Item	Estimates		
	1983	1984	1985
Research & Evaluation Solicitations.....	15	16	16
NIJ Grants and contracts awarded.....	115	120	120
Research & Evaluation projects monitored.....	214	240	245
In-house research projects undertaken.....	2	3	3
Program models developed.....	7	7	7
Project Field Tests Undertaken.....	1	2	2
Criminal Justice Workshops Sponsored.....	22	24	26
Statistical Bulletins & Special Reports prepared and reviewed.....	15	24	59
Statistical Reports prepared for BJS.....	56	64	40
Statistical Reports disseminated (in thousands).....	413	459	495
On-site monitoring of statistical grants/contracts.....	36	26	41
Responses to Requests for Statistical Information.....	2,752	6,300	3,500

Item	Estimates		
	1983	1984	1985
Statistical Series & Related Programs developed.....	3	3	...
Major Stat. program evaluations & redesigns initiated and managed..	4	5	...
Other major statistical programs managed.....	40	35	31
Juvenile justice formula grants awarded.....	53	53	53
Juvenile justice special emphasis grants awarded.....	60	40	50
National Institute of juvenile justice grants awarded.....	35	44	44
Juvenile justice technical assistance delivered (instances).....	750	750	750
Juvenile justice active grants monitored.....	349	349	300
FSOB claims closed.....	289	260	309
FSOB appeals closed.....	19	20	15
Regional Information Sharing grants monitored quarterly: These statistics assume no new funding of the grants after 1985.....	28	28	28
Grants, contracts & inter-agency agreements closed.....	899	528	357
Categorical grant applications processed.....	312	353	247
Contracts & modifications awarded.....	49	44	44
Purchase orders issued.....	830	896	920
On-site delivery of financial technical assistance.....	10	10	35
Civil Rights pre-award compliance reviews.....	40	50	50
Civil Rights complaints closed.....	25	15	45
Grant awards & supplements processed.....	382	400	450
CJC letter-of-credit accounts reconciled.....	3	35	19
Personnel action documents processed.....	1,150	1,200	1,500
Requisitions for property and services processed.....	850	1,000	1,050
Directives issued and distributed.....	50	25	100
Graphics and Printing Requisitions.....	275	350	500
National Victims Resource Center requests.....	...	420	1,680
Victim Correspondence.....	...	1,000	3,000
Awards to victim compensation providers.....	...	...	43
Awards to states for victim assistance programs.....	...	...	39
State and Local Block grants awarded.....	...	...	57
Prison Industries enhancement certification.....	...	...	53
Technical assistance provided state and local governments.....	...	...	8
Victim technical assistance provided to private non-profit, educational and hospital institutions.....	...	...	200
	...	100	300

Item	Estimates		
	1983	1984	1985
Grants or contracts made to non-profit, educational and hospital institutions.....	...	25	40
Demonstration projects funded.....	...	...	12
Training workshops conducted.....	...	...	50
National priority programs conducted.....	...	...	4
Program Briefs Distributed.....	...	...	3,000
			2,500

**Program Changes:** There are two program changes which will affect the staffing level. The first is an increase of 16 positions, 16 FTE and \$769,000 to provide staff to administer the Victims of Crime Act. There are three main programs under the Victims of Crime Act: (1) a compensation program which reimburses State victim compensation funds for up to 35% of their prior year expenditures; (2) a crime victims assistance program which makes awards to States to enable agencies of State and local governments and non-profit organizations to provide numerous types of crime victims services; and (3) a Federal victims assistance program through which the Federal government provides a full range of victim services to victims of Federal crimes. These programs are funded by a victims of crime fund which derives its revenues from fines, forfeited appearance bonds and penalty assessments obtained from Federal criminal defendants. However, these funds are to be used to provide victims services and cannot be used for administrative purposes. A total of 16 positions are needed to administer these programs. A reprogramming request for these positions was approved in 1985 to permit early implementation of the Victims of Crime Act.

The second program change is a reduction of 22 positions, 16 workyears and \$610,000 due to termination of the Juvenile Justice program. This budget proposes the termination of Juvenile Justice program funds. However, it must be remembered that the Juvenile Justice program does not immediately end when funding ceases. Juvenile Justice formula funds are awarded for a three-year period, the year of the award plus two, so funds awarded in 1985 will still be active through 1987. After the third year the obligation period ceases but the grantees have an additional 90 days to expend the obligated funds. The grantees then have an additional 45 days to file the final fiscal reports. Thus the Juvenile Justice program funds will still be active 2-1/2 years after the year of appropriation. This requires that personnel continue to monitor the grants and prepare an orderly phase-out of the program. The Juvenile Justice special emphasis and institute grants are made for less than three years but because most of the grants are made in the latter part of the year of appropriation they will still be active or in a close out status two years after the appropriation. New program initiatives would cease, but there would still be considerable work in phasing out the program. Therefore, we have proposed a three-year phase-out of the Juvenile Justice staff after the program is terminated. We would reduce the staff by 1/3 each year after funding was discontinued. Thus, if funding is discontinued in 1986, as requested in the budget, the 1986 staffing would be cut by 22 positions, 16 workyears and \$610,000. In 1987 an additional 20 positions would be cut and by the end of 1988 there would be no remaining personnel since all grants would be closed out.

The reduction of \$664,000 in administrative costs will be accomplished by restricting travel, and by scheduling the entrance on duty dates of new employees to coincide with available resources.

Office of Justice Programs

Justice Assistance

Status of Congressionally Requested  
Studies, Reports, and Evaluations

1. Section 603 of the Justice Assistance Act of 1984 requires the Assistant Attorney General to submit an annual report to the President and Congress by March 31 of each year. The report will be submitted on time.
2. Section 603B of the Justice Assistance Act of 1984 requires each bureau to submit to the President and Speaker of the House of Representatives by April 1 of each year, an annual report on its activities. The annual report for each bureau will be submitted on time.
3. The Victims of Crime Act of 1984 requires a report by the Attorney General on the effectiveness of the Act, due to Congress by December 31, 1987.
4. Section 405(o)(3) of the Missing Children's Assistance Act requires the Advisory Board on Missing Children to submit to the President and Congress the first annual comprehensive plan for facilitating cooperation and coordination among all agencies and organizations with responsibilities relating to missing children. The plan is due not later than 18 months after the effective date of the Act (October 12, 1984).
5. The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, requires the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to submit to the President and Congress by December 31 of each year an annual analysis and evaluation of Federal juvenile delinquency programs. The report is currently being prepared in draft form and will be published shortly.
6. The JJDP Act also requires the President, within 90 days of receiving the annual report addressed in item 5, to submit a response on the report to the Congress and the Federal Coordinating Council on Juvenile Justice.

Office of Justice Programs

Justice Assistance

Priority Rankings

<u>Base Program</u>		<u>Program Increases</u>	
<u>Program</u>	<u>Ranking</u>	<u>Program</u>	<u>Ranking</u>
Management and Administration	1	State and Local Assistance	1
Criminal Justice Statistical Programs	2	Public Safety Officers' Benefits Program	2
Research, Evaluation & Demonstration Programs	3		
State and Local Assistance	4		
Public Safety Officer's Benefits Program	5		
Missing Children	6		
Emergency Assistance	7		

## Office of Justice Programs

## Justice Assistance

Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985 Authorized	1986	
			Program Decreases	Total
Attorneys (905).....	9	9	...	9
Other Legal and Kindred (900-998).....	1	1	...	1
Social Sciences, Economic and Kindred (100-199).....	45	50	-5	45
Personnel Management (200-299).....	7	9	...	9
General Admin., Clerical and Other Services (300-399).....	143	178	-17	161
Accounting and Budget (500-599).....	24	24	...	24
Engineering and Architecture Group (800-899).....	1	1	...	1
Information and Arts Group (1000-1099).....	8	8	...	8
Business and Industry Group (1100-1199).....	20	22	...	22
Library and Archives Group (1400-1499).....	4	4	...	4
Mathematics and Statistics Group (1500-1599).....	23	23	...	23
Equipment, Facilities and Service Group (1600-1699).....	...	1	...	1
Supply Group (2000-2099).....	4	4	...	4
Total.....	289	334	-22	312
Washington.....	289	334	-22	312

Office of Justice ProgramsJustice AssistanceSummary of Adjustments to Base  
(Dollars in thousands)

	Perm Pos.	Work- years	Amount
1985 as enacted.....	318	326	\$145,551
Proposed rescission.....	...	...	-2,031
Proposed reprogramming.....	16	12	...
1985 appropriation anticipated.....	334	338	143,520
Adjustments to base:			
Savings resulting from management initiatives.....	...	...	-715
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....	...	...	32
Annualization of 1985 pay increase.....	...	...	760
Annualization of additional positions approved in 1985.....	...	4	769
Annualization of additional funding approved in 1985.....	...	...	1,500
Within-grade increases.....	...	...	101
Health benefits costs.....	...	...	22
Federal Employees' Compensation Act (FECA) - Workers Compensation.....	...	...	3
GPO printing costs.....	...	...	15
GSA recurring reimbursable services.....	...	...	8
Federal Telecommunications System (FTS).....	...	...	8
Department telecommunications.....	...	...	20
Automated legal research and litigation support services.....	...	...	4
General pricing level adjustment.....	...	...	2,765
Total, uncontrollable increases.....	...	...	6,007
Decreases:			
Federal Employees' Compensation (FECA) - Unemployment benefits.....	...	...	-63
Rate decrease for full-field investigations.....	...	...	-10
Total, decreases.....	...	...	-73
1986 Base.....	334	342	148,739

Office of Justice ProgramsJustice AssistanceJustification of Adjustments to Base  
(Dollars in thousands)

	<u>Perma</u> <u>Pos.</u>	<u>Work-</u> <u>years</u>	<u>Amount</u>
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Savings resulting from management initiatives:

1. Five Percent Pay Reduction.....

Savings of \$715,000 will be realized as a result of the proposed 5 percent pay reduction in salaries for civilian Federal employees.

Uncontrollable increases:

1. Restoration of reduction for change in hourly rate.....

Section 310 (b) (1) of the Omnibus Reconciliation Act of 1982 required that 1984 and 1985 pay be computed on the basis of 2,087 work-hours. These funds were withdrawn from the 1984 budget. For 1986 the basis for computing pay reverts to 2,080 work-hours and restoration of the \$32,000 reduced in 1984 is required to fund the change in the hourly rate.

2. Annualization of 1985 pay increase.....

This provides for the annualization of the January 6, 1985 pay increase contained in Executive Order 12196, dated December 29, 1984. There are 261 compensable days in 1985 and 70 paid days (October 1, 1984 through January 5, 1985) that were not included in the pay raise amount of \$570,000. Additionally, \$570,000 of the request was absorbed. The calculation of the amount required for annualization is:

70/261 x annual amount of pay raise.....	\$190,000
1985 absorption of pay.....	\$570,000
Total annualization.....	\$760,000



	Perm Pos.	Work- years	Amount
3. Annualization of additional positions approved in 1985.....	...	4	\$769
This provides for the annualization of sixteen additional positions approved in 1985 for which funds were derived from prior year unobligated balances.			
1985 absorption of costs for 12 workyears.....\$614,000			
Amount required for funding of additional			
4 workyears.....155,000			
Total annualization.....769,000			
4. Annualization of additional funding approved in 1985.....	...	...	1,500
This request provides funds in 1986 for an Emergency Assistance Program authorized by the Justice Assistance Act of 1984. An amount of \$800,000 was reprogrammed in 1985 from prior year unobligated balances in order to establish the program for which no funds were appropriated.			
5. Within-grade increases.....	...	...	101
This request provides for the increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$92,000 and benefits \$9,000 = \$101,000).			
6. Health benefits costs.....	...	...	22
The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective the first pay period after January 1, 1984, actual contributions to health insurance increased approximately 12 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$22,000 provides funds for increased costs from pay period No. 2 (\$7,167,000) to pay period No. 3 (\$8,015,000) projected for 26 pay periods.			

Perm Pos.	Work- years	Amount
...	...	\$3
7. Federal Employees' Compensation Act (FECA) - Workers' Compensation.....		
This increase reflects the billing provided by the Department of Labor for the actual costs in 1984 of employees' accident compensation. The 1986 amount will be \$88,000 or \$3,000 over the 1985 base.		
8. GPO printing costs.....	...	15
The Government Printing Office (GPO) is currently projecting a 5 percent increase over the 1985 printing cost of \$300,000. An additional \$15,000 will be required in 1986.		
9. GSA recurring reimbursable services.....	...	8
Reimbursable payments are made to the GSA for heating, ventilation and air-conditioning provided in excess of normal working hours and for guard services. GSA estimates a 5 percent increase over 1985 charges.		
10. Federal Telecommunications System (FTS).....	...	8
The FTS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1986 the uncontrollable increase will be \$8,000 over the 1985 base of \$90,000.		
11. Department telecommunications.....	...	20
Expenses for equipment, installation and commercial tolls (to include message units and directory assistance) have increased dramatically since April, 1984. An increase was not requested for 1985 due to the uncertainties surrounding the industry restructuring and deregulation. Annualization of the current level of billing indicates that 1986 expenses will be approximately 18 percent higher than 1985 estimated expenses, requiring an uncontrollable increase of \$20,000.		
12. Automated legal research and litigation support services.....	...	4
Centralized JURIS litigation support, and case management services are available for all departmental organizations through the Departmental Working Capital Fund (WCF). The WCF is projecting an increase of 5 percent over the FY 1985 costs of \$80,000.		

Perma Pos.	Work- years	Amount
...	...	\$2,765
...	4	6,007
...	...	-63
...	...	-10
...	...	-73
...	4	5,219

### 13. General pricing level adjustment.....

This request applies OMB pricing guidance as of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.8 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1986 estimates.

Total uncontrollable increases.....

### Decreases (Automatic non-policy):

#### 1. Federal Employees' Compensation Act (FECA) - Unemployment Benefits.....

No increase for unemployment compensation is expected in 1986. However there will be a redistribution of estimates based on actual benefits paid in a representative fiscal period. This redistribution will decrease the 1985 charge of \$81,000 to \$18,000.

#### 2. Rate decrease for full-field investigations.....

The Office of Personnel Management (OPM) has notified users of a \$175 reduction below the FY 1984 base cost of \$1,550 charged for each full-field investigation. The uncontrollable decrease is calculated on average accession of 58 persons per year for a total reduction of \$10,000.

Total decreases.....

Total adjustments to base.....

Office of Justice Programs  
Justice Assistance  
Financial Analysis - Program Changes  
(Dollars in thousands)

Item	State and Local Assistance		Juvenile Justice Programs		Public Safety Officers' Benefits Program		Marital Cuban Program		Management & Administration		Total	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
<u>Grades</u>												
GS/04-15.....	...	...	...	...	...	...	...	...	-1	-457	-1	-457
GS/04-14.....	...	...	...	...	...	...	...	...	-3	-149	-3	-149
GS/04-13.....	...	...	...	...	...	...	...	...	-4	-185	-4	-185
GS-12.....	...	...	...	...	...	...	...	...	-2	-68	-2	-68
GS-11.....	...	...	...	...	...	...	...	...	-3	-84	-3	-84
GS-9.....	...	...	...	...	...	...	...	...	-3	-81	-3	-81
GS-7.....	...	...	...	...	...	...	...	...	-3	-55	-3	-55
GS-6.....	...	...	...	...	...	...	...	...	-1	-16	-1	-16
GS-5.....	...	...	...	...	...	...	...	...	-1	-14	-1	-14
GS-4.....	...	...	...	...	...	...	...	...	-1	-13	-1	-13
Positions and annual rate.....	...	...	...	...	...	...	...	...	-22	-722	-22	-722
Lapse.....	...	...	...	...	...	...	...	...	6	197	6	197
Total workyears and personnel compensation.....	...	...	...	...	...	...	...	...	-16	-525	-16	-525
Personnel benefits.....	...	...	...	...	...	...	...	...	-53	-53	-53	-53
Travel and transportation of persons	...	...	...	...	...	...	...	...	-50	-50	-50	-50
Communications, utilities, and other rent.....	...	...	...	...	...	...	...	...	-175	-175	-175	-175
Printing and reproduction.....	...	...	...	...	...	...	...	...	-90	-90	-90	-90
Other services.....	...	...	...	...	...	...	...	...	-371	-371	-371	-371
Supplies and materials.....	...	...	...	...	...	...	...	...	-10	-10	-10	-10
Grants, subsidies and contributions.....	...	...	...	...	...	...	...	...	...	...	...	...
Insurance claims and indemnities.....	...	...	...	...	...	...	...	...	...	...	...	...
Total.....	...	61,236	...	-87,600	...	3,199	...	-5,000	-16	-1,274	-16	-9,139

Office of Justice Programs  
Justice Assistance  
Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Grades and salary ranges	1985 Estimate		1986 Estimate		Increase/Decrease	
	Positions	Amount	Positions	Amount	Positions	Amount
Executive Level, IV, \$72,300.....	1		1		...	
Executive Level, V, \$83,700.....	3		3		...	
ES-5, \$70,500.....	1		1		...	
ES-4, \$68,700.....	6		6		...	
ES-3, \$66,232.....	1		1		...	
GS/GH-15, \$52,282-67,940.....	36		35		-1	
GS/GH-14, \$44,430-57,759.....	64		61		-3	
GS/GH-13, \$37,599-48,676.....	70		66		-4	
GS-12, \$31,619-41,105.....	40		38		-2	
GS-11, \$26,381-34,292.....	16		13		-3	
GS-10, \$24,011-31,211.....	4		4		...	
GS-9, \$21,604-28,347.....	17		14		-3	
GS-8, \$19,740-25,662.....	9		9		...	
GS-7, \$17,824-23,170.....	21		18		-3	
GS-6, \$16,040-20,655.....	19		18		-1	
GS-5, \$14,300-18,710.....	16		15		-1	
GS-4, \$12,662-16,723.....	8		7		-1	
GS-3, \$11,458-14,696.....	2		2		...	
Total, appropriated positions.....	334	\$13,114	312	\$12,485	-22	-\$629
Pay above stated annual rates.....	...	49	...	48	...	-1
Lapses.....	-4	-117	6	197	10	314
Net savings due to lower pay scales for part of the year.....	...	-173	...	...	...	...
Net permanent.....	330	12,873	318	12,730	-12	-143
Average ES Salary.....		(468,617)		(465,186)		
Average GS/GH Salary.....		(38,158)		(38,997)		
Average GS/GH Grade.....		(11.32)		(11.39)		

Office of Justice Programs  
Justice Assistance  
Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Object Class	1985 Estimate Workyears	1985 Estimate Amount	1986 Estimate Workyears	1986 Estimate Amount	Increase/Decrease Workyears	Increase/Decrease Amount
11.1 Full-time permanent.....	330	\$12,873	318	\$12,730	-12	-\$143
11.3 Other than full-time permanent:						
Part-time permanent.....	5	140	5	137	...	-3
Temporary employment.....	2	60	2	60	...	...
Other part-time & intermittent employment.....	1	15	1	15	...	...
11.5 Other personnel compensation:						
Overtime.....	...	20	...	12	...	-8
Other compensation.....	...	27	...	10	...	-17
11.8 Special personal services payments.....	...	225	...	...	...	-225
Total, workyears and personnel compensation.....	338	13,360	326	12,964	-12	-396
12 Personnel benefits.....		1,454		1,404		-50
13 Benefits for former personnel.....		81		18		-63
21 Travel and transportation of persons.....		962		726		-236
22 Transportation of things.....		5		3		-2
23.1 Standard level user charges.....		829		829		...
23.2 Communications, utilities, and other rent.....		1,395		1,196		-237
24 Printing and reproduction.....		1,095		825		-270
25 Other services.....		31,285		20,684		-10,601
26 Supplies and materials.....		185		164		-21
31 Equipment.....		160		35		-125
41 Grants, subsidies, and contributions.....		166,585		88,990		-77,595
42 Insurance claims and indemnities.....		12,175		11,500		-675
Total obligations.....	229,531		139,300			-90,231
Unobligated balance, start of year.....		-98,237		...		98,237
Unobligated balance, transferred, net.....		12,226		...		-12,226
Total requirements.....		143,520		139,300		-4,220
Relation of obligations to outlays:						
Total obligations.....	229,531		139,300			
Obligated balance, start-of-year.....		124,558		150,012		25,454
Obligated balance, end-of-year.....		-150,012		-87,471		-62,541
Outlays.....		204,077		201,841		-2,236

Office of Justice Programs  
Justice Assistance  
Consulting and Related Services  
(Dollars in thousands)

	<u>1984</u> <u>Actual</u>	<u>1985</u> <u>Estimate</u>	<u>1986</u> <u>Estimate</u>
Consulting Services.....	\$25	\$25	\$25
Management and Professional Services.....	232	100	100
Special Studies and Analysis.....	3,600	1,750	1,750
Total.....	3,857	1,875	1,875

Consulting and related services are used in the Office of Justice Programs only for services which cannot be performed in-house or are more cost effective to contract out. Services are required to support program areas that have been selected for national emphasis.

## GENERAL STATEMENT

Mr. DWYER. We are pleased to have with us Lois H. Herrington, Assistant Attorney General, Office of Justice Programs, who has a statement. You may proceed in your own way.

Ms. HERRINGTON. Thank you, Mr. Chairman. May I just introduce Mark Levin, who is Deputy Assistant Attorney General, whom I brought up with me; the Administrator of Juvenile Justice and Delinquency Prevention, Mr. Regnery; the Director of the Bureau of Justice Statistics, Mr. Schlesinger; and the Director of the National Institute of Justice, Jim Stewart.

Mr. Chairman, I am very pleased to have the opportunity to appear before you in support of the 1986 budget request for the Office of Justice Programs. The request is for \$139,300,000 and 312 positions which represents a net decrease of \$4,220,000 and 22 positions from the \$143,520,000 appropriation anticipated for 1985.

Included in this request is a net increase of \$5,219,000 for a number of uncontrollable increases and decreases; an increase of \$61,236,000 for state and local assistance; an increase of \$3,199,000 for the Public Safety Officers' Benefits Act; and a decrease of \$1,274,000 and 22 positions for management and administration. The request also provides for a reduction of \$67,600,000 to terminate Juvenile Justice programs and a decrease of \$5,000,000 for the one-time program to reimburse states for incarcerated Mariel Cubans.

An increase of \$61,236,000 is requested for state and local assistance. This program provides financial assistance to improve the capacity of State and local governments to combat violent crime and protect its innocent victims. This increase will restore the formula and discretionary grant programs to the 1984 level. Since the Justice Assistance Act authorizing these new programs was not enacted until October 1984, funds appropriated in 1984 for this purpose will not be used until this fiscal year. The amount requested for 1986 is actually \$2,398,000 less than the total available in 1985.

Great strides have been made toward accomplishing the major statutory thrusts of the Juvenile Justice Act, deinstitutionalization of status offenders and separation of juveniles from adults. By the end of the current fiscal year 51 states and territories will be in compliance with the deinstitutionalization requirement and a projected 46 states will be in compliance with the separation provision. Many excellent improvements have been made to the juvenile justice system as a result of federal leadership. We now believe it is time for the federal leadership to be redirected to criminal justice issues affecting adults as well as juveniles.

We are requesting \$11,500,000 for the Public Safety Officers' Benefits program, an increase of \$3,199,000 over the amount appropriated in 1985. This request should pay all expected claims. In 1985 there was a carryover of \$3,900,000 which reduced the need for a full appropriation of \$11,500,000. It should be noted that the Comprehensive Crime Control Act includes coverage of federal public safety officers. The requested amount should cover the increase due to this additional coverage.

A decrease of 22 positions and \$1,274,000 is requested in the management and administration activity. This figure includes a de-



crease of 22 positions for the first year of phaseout of the Juvenile Justice program as well as the 5 percent pay cut and the 10 percent administrative reduction. Although no new funding for the Juvenile Justice program is requested, the program would still be active for two additional years. This is due to the fact that awards are usually made late in the year of appropriation and then the states have two additional years to use the funds. Therefore, staffing for the program would be phased out over three years.

Finally, I want to say a few words about a major program that requires no appropriation. It is funded by federal criminal fines, penalty assessments, and forfeited appearance bonds—the Victims of Crime Program. You are undoubtedly aware that Chapter XIV of the Comprehensive Crime Control Act authorized a victim compensation and assistance program.

Fifty percent of the fund is to be used to reimburse state victim compensation programs for 35 percent of their prior year expenditures and 50 percent of the fund will be used to provide assistance to victims of crime. The fund has a ceiling of \$100 million. From October 1, 1984, when the fund was created, through February of this year, a total of \$27,653,496 has been collected. We estimate that approximately \$70 million will be collected this year and that about \$100 million will be collected in 1986.

Guidelines for both compensation and assistance have been published and are now circulating for comment. We hope to make the first awards this summer. I am personally very pleased with the progress we are making in the victims of crime area, an area which society has ignored for too long.

This concludes my statement, Mr. Chairman. I shall be happy to answer any questions you or other Members of the Subcommittee may have.

#### IMPACT OF PROPOSED RESCISSION

Mr. DWYER. Thank you.

In specific areas will you be cutting expenses related to the proposed rescission of \$2,031,000. And what do you anticipate the impact upon your program operations to be?

Ms. HERRINGTON. You mean the reductions for this year?

Mr. DWYER. Yes.

Ms. HERRINGTON. I don't think we have earmarked exactly which ones those are. I think that I could certainly provide that for the record, Mr. Chairman.

Mr. DWYER. Will you do that, please.

Ms. HERRINGTON. Yes.

[The information follows:]

#### PROPOSED RESCISSION

The deficit reduction rescission shown in the Office of Justice Programs is larger than would have been expected because there was a large carryover of unobligated administrative funds from 1984. This carryover was due to the fact that very limited hiring for the State and Local Assistance Program was done in FY 1984, although funds were appropriated for the program, they could not be used until an authorization bill was passed which did not take place until FY 1985, resulting in an excess of funds in the administrative account. The rescission of \$2,031,000 has eliminated that problem. The object class breakdown of this amount of \$2,031,000 is: travel \$12,000, printing \$230,000 and consultant services of \$1,789,000.

## EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

Mr. DWYER. In the 1985 supplemental you are proposing a transfer of \$800,000 from the juvenile justice program to the emergency federal law enforcement assistance program. What specifically would these funds be used for in the new program?

Ms. HERRINGTON. Let me summarize that for you. The funds provided of course, can be for equipment, training, intelligence information and personnel. We are also looking for the uncommon situations that arise in states that have serious or epidemic proportions that desperately need some emergency funds. There is nothing specific that we are targeting right this minute. It would be, for instance, the Atlanta child murder cases, the Mount St. Helen eruptions, those kinds of emergencies.

Mr. DWYER. Do you have any specific requests at this time?

Ms. HERRINGTON. We have one that has come through with certainly some interest from Washington State, in requesting assistance for the Green River slayings. I know that at this time the Federal Government is providing assistance in other areas, such as personnel and some training. The FBI has also been assisting in some ways.

## PROPOSED TRANSFER OF FUNDS TO U.S. ATTORNEYS AND MARSHALS ACCOUNT

Mr. DWYER. In addition to the transfer of the \$800,000, you are also proposing a transfer of \$12,226,000 to the United States Attorneys and Marshals appropriations to help those organizations fund their requirements under the Bankruptcy Amendments and the Federal Judgeship Act of 1984. What is the reason that \$13 million was not used for the Juvenile Justice Program?

Ms. HERRINGTON. As to the first part, on the Marshals program, Mr. Chairman, I think I should refer to the Department of Justice, and to articulate the specific provisions of Juvenile Justice I would like to refer that to the Administrator of the Office of Juvenile Justice and Delinquency, Mr. Regnery.

Mr. REGNERY. Yes, Mr. Chairman. The \$13 million or thereabouts that wasn't spent is a combination of a variety of things. First of all, there is about \$4 million of formula grant money that was carried over from 1984 and prior years. That is the money we provide to the states. If they haven't used it within a certain number of years, they give it back to us, and we accumulate it. By statute, we have to provide it to states which are in compliance with the mandates. That is money that we would have given to those states which are in compliance during 1985.

The remainder was money which had either come from 1984 appropriations or before, and I remind you that we are on a no-year budget, meaning that money that we don't spend in one year is simply carried over to the next year rather than given back to the Treasury.

Every year there is a substantial amount of money that is carried over. We had planned to spend all of it in 1984. Most of the remaining \$9 million was money which was in the pipeline, meaning grants that were in the process of being made. There were several programs that we had slated for development during 1984, but

for one reason or other we weren't able to fund. There was one, for example, which we had advertised competitively, on a gang assistance program for prosecutors' offices, and we simply did not get any grant applications worthy of being funded. I believe it was a \$900,000 program. There were a number of other similar programs which for one reason or another, either late or inadequate applications, and so on, we couldn't fund but we had planned to fund during 1985.

#### REJECTED GRANT APPLICATIONS FOR JUVENILE JUSTICE FUNDS

Mr. DWYER. I take it to mean then there were a lot of applications or a number of applications were made by several states that were probably turned down?

Mr. REGNERY. There are always many of those, yes.

Mr. DWYER. And was the turndown because the programs described were inadequate, or was there a planned program of turning money down in order to wind up with a free balance?

Mr. REGNERY. Oh, no, there was no plan that we would wind up with a balance. Grants simply could not be made for one reason or another. For example, the grant budget may have been inadequate, they may not have met the specifications that we set forth in the Federal Register when we advertised the program. They may have had inadequate staff or other problems of that nature, which meant according to one of our guidelines the program simply couldn't be funded.

As another example, we had set aside \$400,000 for developing a program to help jurisdictions overcome the problem of the use of juvenile records in other juvenile courts. We brought together a number of experts to try to advise us on exactly what we should do. We realized the problem was much more complex than we thought initially, and we simply were not able to develop a program that was good enough to spend that much money on. We were planning on continuing to develop that program during FY 1985, to spend the money which was carried over. There are a number of similar programs as well.

Mr. DWYER. If you used the money for the purpose that you state in your justifications, you won't have the money to carry over to use for these programs or these states, once they get their applications in timely order; is that true?

Mr. REGNERY. I guess I don't understand the question.

Mr. DWYER. If you did not use the money to fund your Marshals program, the money would remain until it was expended; am I correct?

Mr. REGNERY. That is right.

Mr. DWYER. So that it might mean that the states in fiscal 1986 would have their applications in a timely manner, and you would have the money to fund those applications?

Mr. REGNERY. That is true, yes.

Mr. DWYER. Would you provide for the record a more extensive list of states and programs that may have been rejected.

Mr. REGNERY. Yes.

Mr. DWYER. Would you do that, please.

Mr. REGNERY. May I just clarify that it is more than states. The states all got their money in 1984. Our budget is broken down, to about a 60-40 ratio between state formula grants and discretionary money. All of the states that applied did in fact get money during 1984. The bulk of the carryover money was from the discretionary grant program, but I will give you a breakdown for the record of all those programs.

Mr. DWYER. Thank you.

[The information follows:]

#### PROGRAMS THAT WERE PLANNED BUT NOT FUNDED IN FISCAL YEAR 1984

The \$13 million of Juvenile Justice funds which were carried over from 1984 came from a variety of areas. One of the 1980 Juvenile Justice amendments provided that non-participating state funds which had not been used by state and local organizations in those states plus deobligated formula and special emphasis funds must be made available to states which were in full compliance with the deinstitutionalization and separation provisions of the Act. There was a total of \$3,600,000 available for this purpose in the total amount carried over. The carryover funds also included \$1,125,000 from the fiscal year 1984 appropriation which was allocated to the non-participating states and would have been made available during fiscal year 1985 to state and local organizations in those five states to carry out formula grant purposes. The balance was funds from discretionary programs that were proposed in the 1984 program plan. These programs were Privatization of Probation (\$2 million); Private Sector Corrections (\$4 million); Reading Program for Juvenile Offenders (\$370,000); Reduction of Gang Violence (\$900,000); a juvenile treatment facility (\$363,000) and several projects.

#### PHASE OUT OF JUVENILE JUSTICE PROGRAM

Mr. DWYER. Mr. Smith.

Mr. SMITH. You are proposing again to phase out the Juvenile Justice program. Are you proposing to phase out all of the programs?

Ms. HERRINGTON. We do have great concern about Juvenile Justice. I think anybody in the criminal justice system certainly does. We are hopeful that in the new state and local discretionary and block grant programs that we can incorporate many of the ideas. In fact, I believe in Section 403(a) of the Justice Assistance Act, there are 14, 15, and 17 items of the programs that have a high probability of success, that we are hoping will be implemented by the states. Those actually incorporate language for juvenile justice issues.

Mr. SMITH. Where will you get the money?

Ms. HERRINGTON. This is already appropriated in the state and local assistance program, and those, of course, will be new monies going out this year. This will be new money as part of the state and local assistance programs which the states can then prioritize, and certainly can use for juvenile justice assistance programs as well.

#### RUNAWAY YOUTH PROGRAM

Mr. SMITH. What about runaway youth, is that one of the programs?

Ms. HERRINGTON. The Missing Children Fund, we certainly hope to keep. I think it is very important and the money has been appropriated for it.

Mr. SMITH. Well, missing children is a little different from runaway youth. I am talking about the runaway youth programs that have been funded under Juvenile Justice.

Ms. HERRINGTON. We have not itemized and that is something we have instructed to be done in our office. We need to start looking at the specific alternatives, so that we can start matching programs in this time of budgetary constraints, to pick up those that are so vitally important.

#### MISSING CHILDREN'S PROGRAM

Mr. SMITH. You mentioned what is now called the Comprehensive Crime Control Act, which is 600 pages of our continuing resolution, and there are more sections in that than I can even remember, even though Senator Rudman and I along with the House and Senate Judiciary Committees were the ones that put it together that night. One of them, of course, is Victims of Crime, and another one is the Missing Children's Fund. Are you having any problems getting the regs out and getting these programs underway?

Ms. HERRINGTON. Although the advisory board that has just been sworn in, we are pleased because we think they are an outstanding board. Let me refer that to the Administrator, because he is the person that keeps close supervision, Mr. Regnery.

Mr. REGNERY. Yes, Mr. Chairman. The Missing Children's Board, which you will recall the statute established, was appointed by the Attorney General in January, and met for the first time about three weeks ago. We had suggested a number of areas of priorities for them which they endorsed, and we are now in the process of establishing those priorities and announcing them in the Federal Register. That should be published sometime within the next week or so. We will then proceed to determine the best way to make those grants.

I anticipate that the \$4 million that was appropriated for missing children's activities will be largely committed during the next six months. It is new to us. There are a lot of things that we don't know about missing children that we are finding out. We have been hesitant to rush in too quickly to commit that money until we have a better idea of what we are up against. I believe with the staff that we have established in my office and the research we have done, we are beginning to establish enough knowledge to formulate a good program.

#### VICTIMS OF CRIME PROGRAM

Mr. SMITH. What about the Victims of Crime; how are you coming with that?

Mr. REGNERY. Ms. Herrington can speak to that.

Ms. HERRINGTON. What specifically about the program?

Mr. SMITH. Are you running into any problems in getting it implemented?

Ms. HERRINGTON. I would love to say not yet. We have both guidelines published. The Victims of Crime compensation part went into the Federal Register in January. We expect that after public comment and reply those funds would be available in early summer to the states.

We have an ongoing program with state and local assistance and Victims of Crime, in which we are going out to the regions, and trying to encourage the states to appoint their administrators and local agencies to deal with both programs. We give them all the information they need and provide them with the applications. We also give them the guidelines so we can get instant comments as well as those comments coming back from the Federal Register.

As far as the assistance part, the guidelines for the Victims Act were published in the Federal Register on March 18 of this year. We are again receiving a lot of comments. We are dealing closely with most of the groups that will be most concerned. We expect that those funds, however, will not be out until the late part of the summer.

Mr. SMITH. In this regard, of course, when you write a 600-page bill, in the wee hours of the morning, I know there are going to be some problems somewhere. There are bound to be. You do the best you can. Of course, the authorizing committee had worked for several years, but the bill that came out of it wasn't their language.

We had to change it in several respects because they couldn't get together, and so I am anticipating there will be some problems. Probably in view of the history of their not being able to agree, the Senate and the House legislative Committees, and the breakdown of Subcommittees and all the problems involved, we may have to correct whatever needs to be corrected in another appropriation, and so I want you to keep us informed.

Ms. HERRINGTON. I certainly will.

Mr. SMITH. If there are problems that need to be corrected.

Ms. HERRINGTON. And I appreciate your concern. I have to tell you the response is so incredibly enthusiastic I wish all those that had worked so hard could get some of the benefit of listening to the response of people that so desperately need help.

Mr. SMITH. Thank you.

#### OBLIGATION OF STATE AND LOCAL ASSISTANCE FUNDS

Mr. DWYER. Under state and local assistance, of the total amount of \$70,300,000 appropriated for this program for fiscal year 1984 and 1985, how much has been obligated to date and how much would you plan to obligate by the end of 1985?

Ms. HERRINGTON. We have not obligated any yet. I don't think I understand quite the thrust of that. I apologize. We just published the guidelines.

Mr. DWYER. For the \$70,300,000 that hasn't been obligated?

Ms. HERRINGTON. That is right, nothing has been obligated, but as I explained to Congressman Smith—you are still Mr. Chairman—

Mr. DWYER. He is both.

Ms. HERRINGTON. As I explained to him, we are having these regional meetings to get all the information out as soon as possible. We have published the guidelines, and we are trying to get them out as fast as possible because we see the need to make it available to the states as fast as possible.

Mr. DWYER. Our only concern is that the \$70,300,000 that we appropriated in fiscal year 1985 is still there.

Ms. HERRINGTON. Yes, it is.

#### MARIEL CUBAN PROGRAM

Mr. DWYER. The Mariel Cuban program, you are not proposing any additional funding to reimburse the states for the incarceration costs involved in that program. Do you feel that the Federal Government has lost its responsibility in that area?

Ms. HERRINGTON. As I understand, the Mariel Cuban program is new this year. In fact, there was \$5 million appropriated. There are approximately 1,700 Mariel Cubans that have been certified by the INS to be subject to the funds. We have computed approximately \$3,000 per Mariel Cuban that the states will be reimbursed this year.

Mr. DWYER. How about for fiscal year 1986? You are not asking for any more money in your 1986 budget request?

Ms. HERRINGTON. No, we are not.

Mr. NEILL. If I may, as the Bureau of Prisons testified last week, our hope is that those people will be going back under the treaty or into Atlanta under our care.

Mr. DWYER. Are you in effect saying to me that by the end of 1985 all of the Mariel Cuban prisoners that were incarcerated in the State of New Jersey will be out of the State of New Jersey either in Havana, Cuba, or some parts of that island or in the Atlanta Federal Penitentiary?

Mr. NEILL. The plan under which we were developing this budget was to move as fast as we can, by moving those people either out of the country or out of the state facilities to backfill into our Federal facilities.

Mr. DWYER. I understand that. I heard that very clearly. But are you representing to me that that will be done by December 31, 1985, because you are allowing \$3,000 per prisoner, and it is costing the State of New Jersey about \$15,000 a year to keep those people incarcerated. The last communication that I had with the State of New Jersey is that the screening of those prisoners is moving very, very, very slowly, so it would seem to me that your program will not be complete by the end of 1985. Is that a fair assumption?

Mr. NEILL. We may have to adjust our planning, yes.

Mr. DWYER. Then would you come in here asking for a supplemental appropriation, or would you think that we had better put the money in place during this particular budget process?

Mr. SHAFFER. I am John Shaffer, Director of the Budget Staff of the Department of Justice.

I think a lot of this depends upon the whole litigative process. At Atlanta, when we finally got to the point where we were about ready to use the treaty with Cuba to start sending people back, a restraining order or a decision was made that each of the variable excludable aliens was entitled to an individual trial, rather than having to be processed through under the old class action process. There was a flood of packets, in fact, sent to the people down there. It has been a recent event, only about two months ago this whole thing hit us.

We are hoping that process will speed up. If it goes as slowly as it is now, there have only been something like 51 returned to date,

the problem may arise again. More of them are now starting to volunteer to go back. But you are right, a lot depends right now on whether or not that process speeds up. If it doesn't, there may be a need for some additional money. But if they get back on track and can start sending approximately 100 per month, there is a good chance that we will be in pretty good shape by the end of the year.

#### PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM

Mr. DWYER. I would assume we will be probably marking up this bill sometime very early this spring, and I would hope that you would get back to the staff before we commence markup, so that we might be able to do the right thing for the states that are very, very heavily involved in this program, and it is a very, very, very costly program to those states.

You are requesting an increase of \$3,100,000 for the Public Safety Officers' benefit program. How much of this increase is for additional coverage?

Ms. HERRINGTON. Let me give a little background information. The 1985 appropriation for this program was low because we had a carryover that was available from the prior year. This increase is needed, since we will no longer have that carryover. We expect an increase in claims for Federal Public Safety Officers, and we think that proposal will suffice.

#### GOVERNMENT-WIDE ADMINISTRATIVE CUT

Mr. DWYER. You are proposing a reduction of \$664,000 as part of the government-wide program to reduce administrative expenditures. In what specific area will you be cutting expenses in order to achieve this reduction? While you are at it, you might as well tell us what impact it will have on your operations.

Ms. HERRINGTON. May I supply that for the record, Mr. Chairman, so I can be absolutely specific?

Mr. DWYER. Yes.

[The information follows:]

#### REDUCTION IN ADMINISTRATIVE COSTS

The reduction of \$664,000 in administrative costs represents savings which will be achieved as a result of management initiatives to gain efficiency in the planning and operation of the Agency. The savings will be accomplished mainly by restricting travel and by scheduling the entrance on duty dates of new employees. Grant monitoring, financial monitoring, technical assistance, and attendance at conferences will not be eliminated but the number of employees traveling to the same destination will be restricted to the absolute minimum required.

#### END OF YEAR ESTIMATED UNOBLIGATED BALANCE

Mr. DWYER. What are the anticipated unobligated balances that will carry over into fiscal year 1986 in your program? You may want to supply that for the record.

Ms. HERRINGTON. Yes. Thank you very much.

[The information follows:]

#### *Estimated unobligated balances—End of fiscal year 1985*

Research, Evaluation and Demonstration Program.....	\$100,000
Criminal Justice Statistical Program.....	50,000



State and Local Assistance.....	15,000,000
Emergency Assistance.....	
Juvenile Justice Programs .....	3,000,000
Missing Children .....	1,000,000
Public Safety Officers' Benefits Programs .....	675,000
Marital Cubans.....	
Crime Control Programs.....	
Management and Administration.....	100,000
<b>Total .....</b>	<b>19,925,000</b>

The \$15 million in estimated carryover for state and local assistance is due to the delay caused by establishing a state mechanism to administer the program, identifying the priority needs within the state, and determining which of the 18 priority projects are to be funded. These decisions will require time and we believe a few states will not have these steps accomplished prior to the end of the fiscal year. The \$3 million in Juvenile Justice funds are a result of the new program announcements which are being awarded competitively and will require a much longer period of time for award. The \$675,000 in PSOB is the difference of the \$12,175,000 which is now available and the \$11,500,000 expected to be paid. In view of the unpredictability of PSOB deaths, we believe a small carryover is advisable.

#### KENTUCKY 1985 JUVENILE JUSTICE FORMULA GRANT

Mr. DWYER. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

I understand that Kentucky has not received its fiscal 1985 juvenile justice funding, and I am wondering if you would explain what the reason for that delay is.

Ms. HERRINGTON. May I introduce Mr. Regnery, the Administrator of Juvenile Justice and Delinquency Prevention. I believe he can handle that.

Mr. REGNERY. Kentucky is entitled to \$675,000 for FY 1985. I can't tell you exactly why it hasn't been funded, whether or not its application has been received or whether it is in process. I will supply that for you for the record and tell you exactly where it is.

Mr. ROGERS. That will be fine, but the Kentucky Department of Justice tells me that they will run out of money by June. If you delay any longer, it is going to be a moot question, so I hope that we can get that cleared up very soon.

Mr. REGNERY. I will let you know precisely when the money will be awarded.

[The information follows:]

#### 1985 KENTUCKY JUVENILE JUSTICE FORMULA GRANT

The Kentucky formula grant award for \$675,000 was signed on March 29, 1985.

#### PROGRESS OF JUVENILE JUSTICE PROGRAM

Mr. ROGERS. I wonder if you could evaluate the progress we have made through the juvenile justice program?

Ms. HERRINGTON. Its progress—for \$800 million, you mean over the last 10 years? I know that basically for the deinstitutionalization and for the separation, we have approximately 46 out of 57 states and territories that have complied with the deinstitutionalization requirement and we expect 51 by the end of the year. With the separation, we have 36 states that are in compliance right now. We have a projection that it will be 46 by the end of this calendar year. I think for any other specifics I would refer that to Mr. Regnery.

Mr. REGNERY. The question is rather broad, Mr. Rogers. May I ask you to be somewhat more specific?

Mr. ROGERS. No. I am asking a general question. Can you evaluate the progress made by the program?

Mr. REGNERY. Well, as Mrs. Herrington said, we have made remarkable progress in what the initial mandates of the act were, and that was deinstitutionalization and separation. In terms of reducing juvenile crime, juvenile crime has gone down by 7 to 10 percent since 1974, as compared to adult crime. At the present time approximately one third of all serious crime arrests are of juveniles. I believe at the time that the act was passed, it was somewhere in the vicinity of 40 percent, maybe somewhere higher than that. If you compare the number of juvenile arrests to the overall juvenile population, the juvenile crime rate remains more or less the same. At least there is not enough change to make a statistical difference. It goes up and down by 3 or 4 percent. That figure has remained about constant. As the demographics have changed, the number of juveniles has been reduced as compared to the adult population over the last 10 years. This means we obviously have made a difference in terms of the juvenile crime rate as compared to the overall population. It has not made a lot of other differences.

In terms of other accomplishments, the office has funded a variety of programs involving everything from police work to probation, courts, corrections, prevention, and a number of other activities. Some of those programs have been successful, some of them haven't.

From my point of view, the most successful part of the program, perhaps, other than the deinstitutionalization effort, has been the research that was done over the last 10 years. It has provided, a great deal of knowledge to the field about what is involved with juvenile delinquency and juvenile crime and what sorts of ideas work and don't work. We do know a great deal more about it than we did. We still don't, by any means, know everything. I have characterized it many times by saying that we know, perhaps, a good deal more about what we didn't know in 1974.

#### EFFECT OF ELIMINATION OF JUVENILE JUSTICE FUNDING

Mr. ROGERS. Suppose we cut out the funding for the program, are we in jeopardy of losing the momentum or progress that has been made in dealing with a fairly complex problem?

Mr. REGNERY. In terms of the mandates of the Act, I don't think so. I think that there is a commitment on the part of virtually all states now that deinstitutionalization and separation are the right things to do. We have supplied only a rather insignificant amount of funding for them, in comparison to the total cost to the states. I believe the states would continue to maintain the deinstitutionalization progress that has been made and the progress in separation as well.

In terms of other things, I don't know that anybody can really say. There are some programs, certainly, that would be funded by the Office of Justice Programs. Many are successful programs. There are perhaps other programs that have been successful that would not be funded, although that is very difficult to say, and by

the same token there are programs that we have funded which have been required by statute which perhaps have proven to be not as successful as they might have been. I guess it is a very difficult thing to make an assessment of.

#### CONTINUATION OF JUVENILE JUSTICE PROJECTS BY STATES

Mr. ROGERS. Do we have an assurance from the states—either one of you—that they will in fact pick up where you would leave off on juvenile justice?

Mr. REGNERY. Only to the extent that the states spend a great deal more money on Juvenile Justice than we do. I don't know what the total budget is in all of the states. I suppose nobody does on juvenile justice matters, but it is 10, 20, 30 times what we spend.

Our money is sometimes seed money. Sometimes it adds to what the states do, and inasmuch as juvenile crime is of significant importance to state legislatures' constituents, I think that knowing how the political process works, we can rest assured that the states would continue to fund programs that deal with juvenile delinquency.

Mr. ROGERS. You have got a lot more confidence in it than I do, to be frank with you. I hope you are right, if this money is taken out and not funded. It is quite a gamble. It is a gamble with some young lives on a gigantic scale that we have just been able to try to turn around. I hope that you are right.

#### SETTING OF RESEARCH PROGRAM PRIORITIES

Your budget proposes to continue research at the fiscal 1985 level, which is \$19.5 million. Can you tell us about how you set the research priorities?

Ms. HERRINGTON. I think the most appropriate person to answer that would be Mr. Stewart.

Mr. STEWART. Mr. Rogers, we have set the priorities on two bases. The first basis is to try to follow the investment we have already made in the research area and build on that knowledge we have gained. But more importantly, we have met with the governors, the mayors, the counties, the police chiefs, and the Conference of Chief Justices as well as the prison administrators, and we have met with them specifically to identify what they consider to be the most pressing priorities.

In addition to that, we have also performed a national survey of over 2,300 practitioners, to get an idea of what their most pressing needs were, and how the Federal Government might be able to provide some information as to their policies. That is essentially how we have come up with the priorities which have changed over past years, and that has been because of the practitioner input and the input from the state and local governments.

They are the ones who really have the burden of responsibility. All we try to do is provide a range of options that are backed up with some research as to what the consequences of those options would be.

Mr. ROGERS. It is refreshing to hear you say that you are getting your ideas from those who have their hands on it. I come from a background as a state prosecutor myself. As state prosecutor I

found, both at the state and federal levels, that frequently they were living in an ivory tower and really didn't have a feel for what was going on on the ground and the practice that we were having implemented.

That is refreshing, that in fact you are listening to those who know what the problems are from firsthand experience. You are doing exactly what you should be doing. Is that how you came up with the topics to get into and the questions to be asked and so on? Is that how you came up with those things?

Mr. STEWART. Yes.

Mr. ROGERS. By talking with the practitioners?

Mr. STEWART. We talk with them about where their pressing problems were. For example, on the career criminal project, some of the research has indicated that a small percentage of the people who were arrested and prosecuted are responsible for an enormous amount of crime. The prosecutors were the people that were saying that we typically went on criminal records, as opposed to other additional profiles. We began to give that information a higher level of priority and then worked with the police to build up better evidence that the prosecutors could identify the career criminals.

The prosecutors themselves, when they take a career criminal case, need a substantial amount of backup, and that is where the detectives come in, by assembling the information. Previously, many of the systems just handled what came in, based on what crime was appropriate, as opposed to a more comprehensive look.

#### FEDERAL, STATE AND LOCAL COOPERATION

Mr. ROGERS. I found, too, that frequently the federal agencies—I was a state's attorney, and I found that the federal agencies didn't have all that much interest in getting involved in state cases, although we were dealing with a defendant perhaps who was a simultaneous defendant in the federal system, didn't have too much interest in getting involved in our case, because they wouldn't get any credit for it, particularly the FBI. I wonder if you had a feel for that phenomenon?

Mr. STEWART. I have a very good feel for that phenomenon. Mrs. Herrington is a former prosecutor at the local level. I am a former chief of detectives at the local level, and I have worked with the FBI in many investigations. I am very familiar with that. I want to say that we have made some enormous progress in a couple of important areas.

One has been the Violent Criminal Apprehension Program (VICAP) area, where we are bringing in local homicide investigators to work with the FBI at Quantico. We use their resources and their training, and they are employing some local investigators to work on the serial murderers.

Mr. ROGERS. On what?

Mr. STEWART. Serial murderers. We are setting up a national network, in order to deal with them. We have also looked at the Fist operation, which is the U.S. Marshals program which has been very successful in using state and local resources to track down fugitives. It also has National Institute of Justice evaluation and is be-

ginning to show actual instances where there has been a very effective two-way communication sharing.

Recently in New York the U.S. Attorney there, Rudy Giuliani, and the Chief of Police, Ben Ward, cooperated on a number of major narcotic investigations that the National Institute of Justice has also been involved with. It has produced some success stories and we are using these success stories to begin to induce other prosecutors, police and the FBI to work together, showing that rather than being competitive, we can compliment each other and not waste our resources.

I think that we, over the past years, with the work of the President, certainly with Ed Meese now as the Attorney General, and William French Smith, that they initiated a number of programs that we support with the research, giving evaluation and having hard data.

Mr. ROGERS. That is very good. I can't encourage you strongly enough in that direction. In my opinion, solving the crime problem is not so much a matter of thinking as it is doing. Many times it is just simple procedural mechanical methods that achieve some results, like the superior career criminal program which I think has had phenomenal success in lowering the crime rate.

It is not a great exercise in socratic wisdom. It is just a matter of putting two thoughts together. We lucked up and backed around on a typewriter and happened to get A and B in proper order. I think we could do a lot more than that. I am glad to see that you are on that track.

Mr. STEWART. Rather than try to sell our programs, and say these are programs that we developed, we are trying to allow the state and local people to help determine what in fact is most valuable to them, and try to show examples of success, rather than here within our own agency coming up with the best answer and saying you have to do it this way.

#### NATIONAL ASSOCIATION OF PROSECUTORS

Mr. ROGERS. Do you have contact or do you listen and attend the meetings of the prosecutor's national association?

Mr. STEWART. The District Attorneys Association.

Mr. ROGERS. Yes.

Mr. STEWART. Yes, we do. Jack Gilberton and Newman Flanagan have been participants, former president and the current president also. We are currently working on a proposal to improve the training of state and local police and prosecutors in the search and seizure area. Part of the decision in the Leon case was allowed on good faith. One of the issues brought up by one of the justices in the Leon case was the need to monitor the cases coming into the system, to be sure that the police are complying with these rules.

What we are trying to do is come up with a program that will use law enforcement networks for training and the NDAA to get this information out. This would allow us to improve police professional and prosecutorial discretion in cases involving search and seizure. This is an area in which there has been a great deal of debate.

## STATE AND LOCAL ASSISTANCE

When you say you talk to the states, are you talking about the state attorney general types?

Mr. STEWART. We also meet with National Association of Attorneys General (NAAG). The local prosecutors are the people we are planning for this, but we do also meet with the state attorneys general. In many states they do not have criminal responsibility, but they have civil responsibility. As a result, they don't have as much direct influence as the district attorneys.

Mr. ROGERS. But your primary contact is the local prosecutor?

Mr. STEWART. That is right.

Mr. ROGERS. The State's attorney and the U.S. attorneys?

Mr. STEWART. In terms of prosecution, that is right, but we also work very closely with the police, through the Police Executive Research Forum, the International Association of Chiefs of Police, the National Organization of Law Enforcement Executives, and the Police Management Association, and then also with the corrections people. The National Institute of Justice has a broad mandate that reaches out to all of these systems, and we have also set up some very good inputs through the Chief Justices Association as well.

Mr. ROGERS. I want to encourage you to work and listen to that local prosecutor, that state's attorney. The U.S. attorneys have got plenty of staff and they are well fixed.

Mr. STEWART. Yes.

Mr. ROGERS. But these poor old state's attorneys are out there all by themselves many times shooting from the hip, and have hardly any help. I think the General will back me up on that, for the most part.

Now, there are a few of them, some of the big-city operations have large staffs, they are all fine staffs, but out in the states away from those large cities particularly I think is where we need a lot of help for those people, and you people are in a perfect slot to do that. Those people know what the problems are, because they have been burned on them many times, and we encourage you on that. Thank you.

Mr. STEWART. Thank you, Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. DWYER. Thank you, Ms. Herrington. We will have one or two more questions for the record. I thank you for being here this afternoon.

Ms. HERRINGTON. Thank you.

Mr. DWYER. We have a few more questions which we shall ask you to answer for the record. The Committee will stand adjourned until 10 a.m. tomorrow morning.

[Questions for the record and the answers submitted thereto follows:]

## QUESTIONS SUBMITTED BY CONGRESSMAN EARLY

## OFFICE OF JUSTICE PROGRAMS

Juvenile JusticeQUESTION:

Again this year you are proposing to eliminate the Juvenile Justice and Delinquency Program (-\$67,600,000). Yet Congress continues to defend the merits of this program year after year and restores funding. Has Justice consulted with the states to determine whether they can continue to support this program without federal funds?

ANSWER:

The states have known since 1981 that the Administration has requested termination of this program. In 1984 the Administration requested and received funds for the State and Local Assistance Programs which can be used to fund many Juvenile Justice projects.

QUESTION:

If the Juvenile Justice Program is not restored by the Congress, will any of its projects be assumed by other organizations within the Department?

ANSWER:

Yes. It should be pointed out that most Juvenile Justice awards will be made in the last half of this fiscal year. Therefore, almost all new or continuation projects will be active through 1986. During that time a review of all Juvenile Justice discretionary programs will be made and those of a high priority will be funded from other sources. In addition, funds have been requested for the Missing Children Program.

State and Local AssistanceQUESTION:

You are requesting an increase of \$61,236,000 for State and local assistance in compliance with the Justice Assistance Act included in the Comprehensive Crime Control Act. Since the Comprehensive Crime Control Act was not signed into law until October, please provide for the record, the amount of carryover funds you had from the State and Local Assistance Program for FY 1984, and unobligated funds for FY 1985?

How much of the money requested for the State and Local Assistance program would be available for Juvenile Justice projects?

ANSWER:

There was \$66,398,000 appropriated for state and local assistance in 1984. Only \$2,500,000 of that amount was obligated for the National Center for State Courts. Therefore, \$63,898,000 was carried forward into 1985.

The carryover of \$63,898,000 plus the \$5,500,000 appropriated in 1985 makes a total of \$69,398,000 available in 1985. Since we have not received applications yet from the states we can only estimate how much of this amount will be obligated by the end of FY 1985. However, we estimate that at least \$55,000,000 will be awarded by September 30, 1985. The remaining balance will be awarded in early 1986 after approval of State applications.

Of the amount available in FY 1985, \$55,518,000 is for block grants to the states. States may use these funds for any of the 18 purposes stated in the Justice Assistance Act. Several of the purposes are specifically targeted toward juveniles. Since this is a state determination, we are unable to predict the proportion of funds which would be used for Juvenile Justice projects. We are unable to estimate the amount of state and local discretionary funds which will be available for Juvenile Justice purposes until a review of all Juvenile Justice projects is made.

#### Juvenile Justice

##### QUESTION:

You state that by the end of this current fiscal year 51 states and territories will be in compliance with the deinstitutionalization requirements of the Juvenile Justice Act. If funding is terminated, how long do you think the states will remain in compliance with the deinstitutionalization requirements of the Juvenile Justice Act?

##### ANSWER:

We believe the states will remain in compliance because there is a commitment on their part that deinstitutionalization is the right thing to do. It should be remembered that the Federal Government has supplied only a small portion of the total funds which have been spent on deinstitutionalization. States have supplied the major part of the necessary funds and they will not throw this investment away just because some Federal funds are no longer available.

##### QUESTION:

How many juvenile justice projects were evaluated by your office in 1984 and how many of them were considered to be successful?

##### ANSWER:

During FY 1984 five program evaluations were underway: Evaluation of the New Pride Replication Program, Evaluation of the Violent Juvenile Offender R&D Program, Part I (Corrections) and Part II (Prevention), Alternative Education Program Evaluation, Youth Advocacy Program Evaluation, and Sexually Exploited Children Service and Research Project. Two new evaluations of the OJJDP Special Emphasis Programs focused on vertical prosecution of serious habitual offenders and on private sector involvement in corrections were initiated.

The following results of evaluations were available in 1984:

- a) The Violent Juvenile Offender R&D Program, Part I (Corrections). The findings indicate that the program is serving serious offenders with a history of involvement in violence. The early results



suggest that over 90 percent of the program clients were making significant progress in each of several treatment areas (education, family relationships, behavioral problems).

- b) Youth Advocacy Program Evaluation. The final results indicate that the most successful activities took on "public" targets - executive agencies, courts, and legislatures. Collaborative efforts were more successful than activities pursued alone.

QUESTION:

How many projects will remain in operation without Federal funding?

ANSWER:

It is difficult to predict with any degree of certainty the number of Juvenile Justice projects that would remain in operation without Federal funding. The reason for this difficulty is the number of variables that directly relate to this issue:

1. the type of funding question (i.e., formula or discretionary awards);
2. the nature of the projects in question (i.e., research, evaluation, training, technical assistance, specialized continuation activities and state/local based formula award program specific subgrant projects;
3. the amount of funds in question (i.e., the larger the grant awards the less likelihood for continuation;
4. the purpose of a specific project and its corresponding sponsorship by a public/private agency with sufficient resources, as well as a commitment to project continuation;
5. the timeframe for withdrawing the federal support (i.e., the longer the period the higher the likelihood an alternative source of funding could be found); and
6. the clarification of what constitutes project continuation (i.e., many projects might be continued in part or at significantly reduced levels of operations with subsequent reductions in project impact).

However, all Federal funding is not being eliminated. Other areas of OJP can and will fund projects now funded by Juvenile Justice funds.

Transfer to U. S. Attorneys and Marshals

QUESTION:

In your FY 1985 supplemental justifications, \$12,226,000 is earmarked for transfer from the Juvenile Justice Program to support 85 new judgeships mandated by the Bankruptcy Reform Act. Is this \$12,226,000 available because states have not requested funds or because the department does not want to obligate the funds? Please provide a list of the states that have received JJDA money in FY 1984 and FY 1985 so far, and how much the requests were for.

ANSWER:

There was \$13,026,000 of prior year funds that were carried over into 1985. Of this amount, \$800,000 is proposed to be reprogrammed for emergency assistance. The remaining \$12,226,000 is proposed for transfer to support the 85 new judgeships. These funds were not spent in 1984 for a variety of reasons such as poor applications which did not meet the program specifications, formula grant money from nonparticipating states which was available should a state decide to participate, reverted funds from expired grants, and programs which were planned but did not work out.

The following 16 formula grant awards have been made from FY 1985 funds:

Alabama	\$723,000
Arkansas	422,000
Connecticut	493,000
Delaware	225,000
Massachusetts	895,000
Michigan	1,635,000
Minnesota	733,000
New Hampshire	225,000
New Jersey	1,215,000
New York	2,872,000
Rhode Island	225,000
Kentucky	675,000
Maine	225,000
Wisconsin	837,000
Vermont	225,000
Washington	745,000

The attached list reflects FY 1984 awards.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICSDistribution of Juvenile Justice Formula Grants by State - FY 1984

<u>State</u>	<u>Amount</u>	<u>State</u>	<u>Amount</u>
Alabama	\$735,000	Nevada	
Alaska	225,000	New Hampshire	225,000
Arizona	527,000	New Jersey	1,238,000
Arkansas	422,000	New Mexico	274,000
California	4,215,000	New York	2,930,750
Colorado	536,000	North Carolina	1,051,000
Connecticut	510,000	North Dakota	
Delaware	225,000	Ohio	1,933,000
Florida	1,578,000	Oklahoma	573,000
Georgia	1,058,000	Oregon	462,000
Hawaii		Pennsylvania	1,944,000
Idaho	225,000	Rhode Island	225,000
Illinois	2,040,000	South Carolina	601,000
Indiana	1,004,000	South Dakota	
Iowa	518,000	Tennessee	819,000
Kansas	421,000	Texas	2,944,000
Kentucky	677,000	Utah	376,000
Louisiana	873,000	Vermont	225,000
Maine	225,000	Virginia	935,000
Maryland	723,000	Washington	742,000
Massachusetts	920,000	West Virginia	352,000
Michigan	1,677,000	Wisconsin	855,000
Minnesota	741,000	Wyoming	
Mississippi	519,000	American Samoa	56,250
Missouri	859,000	Dist. of Columbia	225,000
Montana	225,000	Guam	56,250
Nebraska	287,000	Puerto Rico	794,000
		Virgin Islands	56,250
		Trust Territory	56,250
		N. Mariana Islands	56,250
		Total	<u>41,970,000</u>

QUESTION:

I understand that the Office of Juvenile Justice and Delinquency Prevention was reauthorized for FYs 1985-1988. Is this how long it will take to "phase out" the program, or was it reauthorized through 1988 because it has proven to be effective and worthwhile?

ANSWER:

The principal objectives of the Act -- deinstitutionalization of status offenders and separation of juveniles from adult offenders in secure institutions -- largely have been met. At the same time, the provisions of the new Justice Assistance Act address issues related to serious juvenile offenders, jail overcrowding, restitution and other criminal justice matters affecting juvenile, as well as adult offenders.

The nature of the formula grant program under the Juvenile Justice Act requires up to three years from the time of appropriation to the final expenditure of funds. This includes the award to the states and the subgrant to local units of government. Thus, the closeout of grants and final accounting for previously appropriated funds would probably occur in FY 1988. Funds authorized and appropriated for each year from FY 1985 through FY 1988 would have the same three-year time cycle.

QUESTION:

One of the major rationales for instituting the Justice Assistance Act was that state and local criminal justice agencies handle 95 percent of the total criminal justice workload and therefore need this additional assistance. Doesn't the same rationale apply to the Juvenile Justice Program?

ANSWER:

The programs authorized by the Justice Assistance Act address the total criminal justice workload including Juvenile Justice. States will use their block grant funds to address their most pressing criminal justice problems which may be of a juvenile nature.

### Pornography Study

QUESTION:

Has the "pornography" study that cost this Government \$768,000 been completed? What was the determination or new insights that this study provided us?

ANSWER:

The pornography study is scheduled for completion in November, 1985.

QUESTION:

Is the Office of Justice Assistance currently involved in any more studies that the Subcommittee should know about?

ANSWER:

The Office of Juvenile Justice and Delinquency Prevention, and the other three Bureaus in the Office of Justice Programs publish in the Federal Register program plans which set out the programs and studies which are contemplated each fiscal year. The Subcommittee has been provided with copies of Office of Justice Programs' plans.

## QUESTIONS SUBMITTED BY CONGRESSMAN DWYER

## OFFICE OF JUSTICE PROGRAMS

Juvenile Justice SystemQUESTION:

In your statement you say that many excellent improvements have been made to the Juvenile Justice system and that you believe it is time for Federal leadership to be redirected to criminal justice issues affecting adults as well as juveniles. What evidence do you have that the states will finance programs to improve the Juvenile Justice system if the Federal Government totally eliminates its support for their efforts?

ANSWER:

The Juvenile Justice and Delinquency Prevention Program has now been in operation for over ten years. During that time the level of understanding concerning Juvenile Justice matters has increased tremendously. We do not believe that states and localities will simply abandon all the progress which has been made if Federal funding is terminated. We believe that Juvenile Justice purposes will be able to be supported by state and local justice assistance block grants. It should be remembered that the Federal Government has supplied only a small portion of the total funds which have been spent on deinstitutionalization and separation. States have a major investment in their Juvenile Justice Systems and they are not likely to abandon that investment simply because some Federal funds are no longer available.

QUESTION:

The justifications describe research funded by the National Institute of Justice and the technical assistance provided to Juvenile Justice programs. If funding is eliminated for the Juvenile Justice programs as you propose, will the states pick up funding for the current research and technical assistance provisions?

ANSWER:

Awards which will be made in 1985 will continue most Juvenile Justice research and technical assistance activities through 1986. It should be noted that the National Institute of Justice has authority to conduct research now performed by NIJJDP.

Under Section 223(a) of the Juvenile Justice and Delinquency Prevention (JJDP) Act, states are required to develop comprehensive plans. The plan shall "provide for the development of an adequate research, training and evaluation capacity within the state" (223(a)(1)). Thus, the JJDP Act has stimulated the development of state research and evaluation activities. Furthermore, more than 40 states have Statistical Analysis Centers (SACS) which coordinate and conduct research and other data collection activities in criminal and juvenile justice. Through these mechanisms and spurred on by the

need for sound data to guide the allocation of shrinking resources, states have developed the capability to undertake research and evaluation activities.

Since the inception of the JJDP Act, thousands of juvenile justice and delinquency prevention programs have been developed through the formula award monies in the participating states and to a lesser degree through categorical funds from OJJDP. In addition, over the past 10 years OJJDP has funded numerous training and technical assistance grants and contracts to transfer a variety of skills to policy makers as well as direct service workers in the juvenile justice service arena. Both the technical assistance, as well as the program grant and contract activity have developed a cadre of expertise throughout the nation. The states, as noted above, are cognizant of this expertise and have developed corresponding information and technical assistance capabilities to identify and access these skills.

QUESTION:

Last July GAO reported that the Office of Juvenile Justice and Delinquency Prevention did not insure that states verify the accuracy of the juvenile incarceration data they reported to the Office and that available data was not sufficient for the Office to determine overall accomplishments under the Juvenile Justice program. Therefore, what is the basis for your statement that most of the states and territories are in compliance with the Act?

ANSWER:

The self-reported data from the states is the best information available with which to measure compliance. Steps are being taken to improve the quality of monitoring. OJJDP state representatives are reviewing state monitoring systems in response to the 1984 amendments to the Act, which require that the Administrator must provide for the auditing of monitoring systems.

State and Local Assistance

QUESTION:

The justifications state that an objective of the State and Local Assistance Program is to implement programs with a high probability of improving the criminal justice system. How are you going to determine which programs have a high probability of improving the criminal justice system?

ANSWER:

Section 403(a) of the Justice Assistance Act requires that block grant funds be used to assist states and units of local government in carrying out specific programs which offer a high probability of improving the criminal justice system. Sec. 901(a) states that "high probability" means that a "prudent assessment of the concepts and implementation plans included in a proposed program, project, approach, or practice, together with an assessment of the problem to which it is addressed and of data and information bearing on the problem, concept, and implementation plan, provides strong evidence

that the proposed activities would result in identifiable improvements in the criminal justices system if implemented as proposed."

This definition is incorporated in the implementing regulations for the block grant program. These regulations also identify 11 specific programs that have been determined in advance to meet the statutory criteria. These are programs like Career Criminal, Treatment Alternative to Street Crime (TASC), and Community Crime Prevention which have proven to be successful. Applicants proposing to implement one or more of these proven programs need not submit any additional description or justification. In future years this list of proven successful programs will be expanded after consultation with state and local governments.

Applicants may also propose to implement a program other than one of these specified in the regulations. However, they must provide a brief description of the program and evidence that it meets the "high probability" criterion. Evidence may include, but is not limited to, the results of any evaluations of previous tests or demonstrations of the program concept. The Bureau of Justice Assistance will determine if the program proposed by the applicant meets the "high probability" criterion based on its assessment of the program concept and the supporting information and justification provided by the applicant.

QUESTION:

What reporting and evaluation systems have you developed which will allow you to determine the effectiveness of the programs in improving the criminal justice system?

ANSWER:

Section 405 of the Justice Assistance Act requires applicants to submit annually a performance report concerning the activities carried out and an assessment of the impact of those activities.

Performance reporting is a key element of the new grant programs authorized by parts D and E of the Justice Assistance Act. It reflects the Administration's New Federalism philosophy by emphasizing post-award, result-oriented monitoring, rather than lengthy and detailed pre-award reviews and approvals. It responds to criticisms of the old LEAA program that it was difficult to quantify, aggregate, and express in substantive terms the activities and results of the programs and projects funded.

Performance reporting is the periodic description of activities and resources and measurement of results. It is based on routinely collected indicators, agreed upon in advance by the grantor agency and the grantees. The implementing regulations for the block grant program implement the statutory requirement for an annual performance report. They require the states to submit by December 31, of each year a report on the activities and results of the previous Federal fiscal year. They require that specific data be collected on both program activities and outcomes.

This performance reporting system will collect information that will provide the basis of the annual report to Congress and the President required by Section 810. Moreover, it will enable informed judgments



to be made about the possible need for more formal and intensive evaluation studies as provided by under Section 801.

Emergency Federal Law Enforcement Assistance

QUESTION:

You are proposing a transfer of \$800,000 from the Juvenile Justice Program to the Emergency Federal Law Enforcement Assistance Program. What specifically would these funds be used for in the new program?

ANSWER:

The Comprehensive Crime Control Act is quite restrictive regarding situations which are eligible for emergency Federal law enforcement assistance; but sets few restrictions, other than nonsupplantation, on the use of assistance in eligible situations. Examples of such situations would be the "Atlanta Child Murders" or the natural disaster at Mount St. Helens.

The Act authorizes the provision of: funds, equipment, intelligence information, and personnel. Funds are to be provided through the Office of Justice Programs; other assistance through the Federal law enforcement community.

Experience, with the provision of funding assistance in past emergencies, indicates that personnel-related assistance will account for 75 percent or more of each request. Past assistance, in order of expenditure, has addressed costs for: overtime compensation, additional personnel; training and related overtime compensation; equipment, primarily related to communications; and technical assistance. Supplies, travel, and facilities costs are also likely candidates for assistance.

## QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

OFFICE OF JUSTICE PROGRAMSJuvenile Justice Phase OutQUESTION:

Your budget reflects a net decrease of \$67,600,000 to terminate Juvenile Justice programs. What is your justification for this decrease this year?

ANSWER:

The Federal Government has provided \$816 million during the past 11 years for the various programs authorized by the Juvenile Justice Act. We believe that the major objectives of the Act, deinstitutionalization of status offenders and separation of juveniles from adult offenders, have been accomplished. Fifty-one states and territories are now in full compliance with the deinstitutionalization provision and forty-six will be in full compliance with the separation provisions by the end of FY 1985. The Administration is very concerned about the consequences of a large Federal deficit and it just is not possible to continue funding all programs.

QUESTION:

Have you ever conducted any studies with respect to the effectiveness of the Juvenile Justice Program, particularly for delinquent youth? It seems to me before you would call for the elimination of this grant program you would want to know how effective it is.

ANSWER:

No study has been conducted of the effect of the OJJDP program on the justice system or on delinquency. The OJJDP has conducted evaluations of most of the discretionary initiatives funded by the Office. These include Deinstitutionalization of Status Offenders, Diversion, Restitution, New Pride Replication, Youth Advocacy, Alternative Education, and the Violent Juvenile Offender R&D Program. Evaluations have recently been initiated for a policy program focused on serious, habitual drug-involved offenders, a prosecutorial program for serious habitual offenders and a private sector corrections initiative. Highlights of the interim or final results are summarized in the NIJJDP Annual Reports.

Mariel CubansQUESTION:

You propose a decrease of \$5,000,000 in funds used to reimburse states for costs associated with the incarceration of Mariel Cubans.

Mr. Norman Carlson of the Federal Prison System recently testified before this committee regarding this problem. He indicated that the Cubans were only accepting the return of a few inmates at any given time. If this is so, why are you requesting a decrease. Shouldn't the states be reimbursed for such costs?

ANSWER:

We are hopeful that the legal problems will be cleared up so that the deportation proceedings can be speeded up to handle about 100 Mariel Cubans a month. In this case, Mariel Cubans would be removed from state facilities to Cuba or the Federal facilities.

QUESTION:

Please supply for the record the number of Mariel Cubans currently housed in state prison facilities in Illinois.

ANSWER:

There are currently 74 eligible Mariel Cubans in Illinois facilities. State figures indicate that by the end of FY 1985 this number will decrease to 37. This does not take into consideration any removals to Cuba or Federal facilities.

QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

OFFICE OF JUSTICE PROGRAMS

Crime Victims Fund

QUESTION:

The Washington Post reported on March 14, 1985, the implementation of the Crime Victims Fund by your office. I noted in the article that the literary profits of federal criminal defendants would be a source for this Fund. Have procedures been written for attaching these funds? What is the status of this Fund and its regulation at present?

ANSWER:

The procedures for attaching these funds are spelled out in detail in the Victims of Crime Act of 1984. Section 1406 of that Act authorizes a United States Attorney to move for the special forfeiture of a criminal's literary profits. The court can order the profits placed in escrow in the Crime Victims Fund for five years, during which time the criminal's victims can sue and execute judgments against the escrowed amount. Any funds remaining in the escrow account after five years can be permanently retained in the Fund by order of the court. No funds have been collected yet under this procedure.

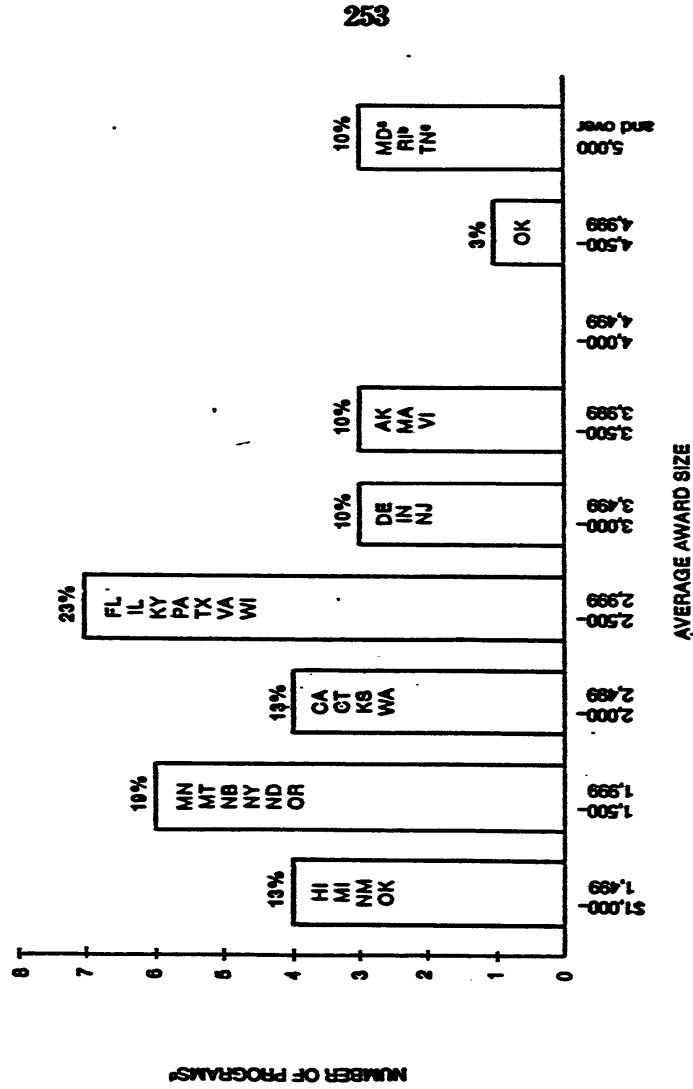
QUESTION:

An article in The Washington Post dated March 14, 1985, noted that the average disbursement to individual victims is \$10,000. Please provide the information from which this average was derived, as this seems quite high to me.

ANSWER:

We do not know the source of the information stated. The average of \$10,000 is too high. A study of Victims of Crime Compensation Programs conducted by the National Institute of Justice indicates much lower average awards. A table from the study which shows average awards is provided.

# AVERAGE AWARDS



\*Maryland reports an average award of \$8,376.

\*Rhode Island has the highest average award at \$12,548.

\*Tennessee reports an average award of \$8,600, which includes payments of attorney's fees.

\*Only a total of 31 programs are reported here, because average award figures are unavailable in West Virginia and Nevada.

Pornography Study.QUESTION:

The Wall Street Journal (November 30, 1984) reported that your Office of Juvenile Justice and Delinquency Prevention awarded a \$238,777 grant to Judith Reisman at American University to study the cartoons of Playboy, Penthouse and Hustler, evaluating their "sexualizing" of children. Please justify this program for me. Who would use the data collected from this program?

ANSWER:

The OJJDP awarded a cooperative agreement to the American University to examine the role of pornography in family violence, child sexual exploitation, and juvenile crime. There is a growing concern over the level of violence and child sexual exploitation in this country. Police have provided numerous anecdotal accounts of finding pornographic material during sex crime investigations. Moreover, there is a long tradition of research which demonstrates that media affects behavior. Specifically, numerous theories have been advanced which link pornography to various behaviors.

It is anticipated that the results will be useful in at least three important ways: 1) to provide guidance for parents in teaching juveniles how to deal with pornography; 2) to provide guidance for school personnel in educating students on how to respond to this material; and 3) to form a basis for future empirical research on the relationship between consumption of pornography and exploitation or crime.

THURSDAY, MARCH 28, 1985.

# ATTORNEY GENERAL

## WITNESSES

EDWIN MEESE III, ATTORNEY GENERAL

W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR  
ADMINISTRATION

CHARLES R. NEILL, CONTROLLER

JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF

## BUDGET REQUEST

Mr. SMITH. The meeting will come to order.

The fiscal year 1986 budget request for the Department of Justice is \$3,808,916,000. This represents an increase of \$116,208,000 above the appropriations enacted to date for 1985. We will be discussing the details of these budget requests of the various agencies that are under the Department of Justice, but today we will begin the hearings with the Attorney General of the United States, Edwin Meese, welcome.

Mr. MEESE. Thank you.

Mr. SMITH. We will insert your biography into the record, and you may proceed.

[The biographical sketch of Mr. Meese follows:]

### EDWIN MEESE III

Edwin Meese III became Attorney General on February 25, 1985. Born December 2, 1931, Mr. Meese's professional career has spanned 25 years as a lawyer, public official, business executive and educator.

From January, 1981 to February, 1985 he was Counsellor to the President and a member of the President's Cabinet and National Security Council. He has had management responsibility for those White House units involved in policy development, planning and evaluation, and the administration of the Cabinet.

Starting as a lawyer in 1959, Mr. Meese was appointed as Deputy District Attorney in Alameda County, California, where he served as a trial attorney for eight years, handling major litigation and investigations. During this time he was also legal advisor to the county Grand Jury and represented the State District Attorney's and Peace Officer's Association before the California Legislature.

Newly-elected Governor Reagan selected him to be his legal affairs secretary in 1967. In this position Mr. Meese had responsibility for all legal matters in the Governor's Office and for liaison with the judiciary, law enforcement organizations and the legal professional of California.

From 1967 through 1974, Mr. Meese served as Executive Assistant and Chief of Staff to Governor Reagan. In this capacity he directed all activities of the Governor's Office and had management responsibility for the Office of Criminal Justice Planning and several other State agencies involved in emergency service.

Entering business in 1975, Mr. Meese was named Vice President for Administration of Rohr Industries, Inc., an aerospace and transportation company located in Chula Vista, California. He returned to the private practice of law in 1976, engaging primarily in business and corporate law in San Diego County.

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In 1977 Mr. Meese became Professor of Law at the University of San Diego and served also as Director of the Law School's Center for Criminal Justice Policy and Management.

He has been active in numerous civic and professional organizations. During 1977-1980 he was Vice Chairman of California's Organized Crime Control Commission. He is a member of the American Bar Association and its Criminal Law Section's "Committee on the Future." He is a member of the State Bar of California, where he has served on the Criminal Justice and Criminal Law and Procedure Committees. From 1965-1967 he was a part-time faculty member at the School of Law at the University of California at Berkeley. He has also lectured widely on legal topics including "The Responsibility of the Legal Profession to Provide Services to the Poor" and "Reform of the Justice System."

Mr. Meese is a life member of the California Police Association and an associate member of the International Association of Chiefs of Police. He is also an honorary member of the National Sheriff's Association and the National Organization of Black Law Enforcement Executives.

He received his B.A. degree in Public Administration from Yale University in 1958 and his J.D. degree from the University of California School of Law at Berkeley in 1958. He has also received honorary degrees of Doctor of Laws from several educational institutions. He served in active duty in the United States Army during 1954-58, and is currently a Colonel in the Army Reserve.

Mr. Meese and his wife, Ursula, reside in McLean, Virginia, with their daughter, Dana, a high school student. A son, Mike, is an Army officer living with his wife, Ramona, at Fort Ord in California.

#### GENERAL STATEMENT

Mr. MEESE. Thank you.

Mr. Chairman and Members of the Committee, I am pleased to be with you today to discuss the 1986 fiscal year budget request for the Department of Justice. I am pleased to have other members of the Department here at the table with me to respond to any detailed questions that Members of the Committee might have. As you know, this is my first opportunity to testify before this Committee as Attorney General, and I am looking forward to working with you, Mr. Chairman, and the other Members of the Committee in the years ahead.

Though I was not at the Department of Justice during the time in which this budget was formulated, I have followed the programs and activities of the Department closely for the past four years and I fully support the initiatives that the President has proposed for the Justice Department, which are reflected in the budget before you today.

This budget maintains our commitment to strengthen important law enforcement functions including enforcement efforts directed against drug trafficking, organized crime, illegal immigration and threats to our national security. A significant portion of the increases provided in this bill will include the initiatives for implementing the Comprehensive Crime Control Act of 1984 in such matters as bail reform, drug diversion, and assets forfeiture. We will also continue our efforts to expand prison facilities, and to activate a new detention facility for illegal aliens during 1986.

The proposal before you also contains funds in our program to assist state and local criminal justice projects, some of which can be targeted towards juvenile justice programs. Many items in the 1986 request extend activities which will begin in 1985 through proposed supplemental funding. As I discuss the 1986 request in greater detail, I will emphasize those items which we intend to implement during this year.



A copy of my formal statement is before you, and I would appreciate it being inserted in the record.

Mr. SMITH. We will insert it.

#### RECENT ACCOMPLISHMENTS

Mr. MEESE. I will try to summarize that as I go along and will not go into the financial details which are represented in the statement.

Mr. Chairman, this request represents an increase of 62 percent, or \$1.46 billion, over the budget which the Justice Department had for the fiscal year 1981, when the budget was then \$2.34 billion. Most of the increase in this four-year period has been directed towards the criminal enforcement activities of the Department, such as our effort against organized crime and illicit drug trafficking. These continue to be serious problems, but we are encouraged by the progress that has been made.

The recent indictments of five men in New York who were acting as part of a commission which had controlled a nationwide, and in some cases international, organized criminal network are representative of the progress we are making. We look forward to many more indictments of this nature in the years ahead.

The Organized Crime Drug Enforcement Task Forces are indicative of the type of coordinated law enforcement activities that are contributing to success in the constant struggle against organized crime elements, narcotics traffickers and the related violence which they spawn.

The joint activities of the Drug Enforcement Administration and the FBI are another example of what this budget will support. The granting of concurrent jurisdiction for narcotics investigations to the FBI has resulted in approximately 800 joint investigations in which both the FBI and DEA are contributing. This includes some 400 investigations in which Title III electronic surveillance has been used since 1982.

These programs have opened the door to the higher echelons of drug trafficking organizations, and indeed the activities of the last few years have produced over 4,000 indictments of organized crime and drug trafficking figures, and some 1,900 convictions as of the end of last year.

These and other efforts have been successful in significant part due to the cooperation and support given to us by this Committee and by the Congress of the United States, and we feel we want to continue our joint efforts to improve our domestic security by countering the illegal forces in this country as well as to expand our efforts against the illegal forces in other countries which have an impact on our own people.

#### CURRENT REQUEST

Today we are requesting a budget of, as you noted, Mr. Chairman, \$3,800,000,000, approximately, and 62,281 positions, which is a net increase of some 455 positions and some \$34 million over the resource level which we anticipate for fiscal year 1985.

The officials that are with me today, and officials from the Department, will be available to you in future sessions to give detailed information about the specific programs of the Department.

Included in this budget is some \$70 million for fiscal year 1986 to implement the various provisions of the Comprehensive Crime Control Act of 1984. This is a very important aspect of the Department's activities. It was a long-awaited improvement in the criminal justice system. It will involve some 837 new positions for which recruiting and placement is beginning this year. These appropriations will affect virtually every one of the law enforcement agencies in the Department, and will provide a basis for utilizing this new tool in the criminal justice area.

I should note that we recently established the Crime Victims Fund, which will be managed by our Office of Justice Programs. As you know, as the funds which are taken from fines and forfeitures materialize, the Department is authorized to expend up to \$100 million for the fiscal year in grants essentially to states for crime victims funds in those states, for victim witness assistance programs, and about 5 percent will be allocated for federal programs in this area.

In terms of the Department of Justice Assets Forfeiture Fund, another result of the Comprehensive Crime Control Act, we are requesting authority to use up to \$5 million in fiscal year 1985, and up to \$20 million in fiscal year 1986, for these activities.

We feel that the management of forfeited assets is a very important part of our activities against organized crime and drug trafficking, because it is through the confiscation of the proceeds, and the confiscation of the property amassed by drug traffickers and organized crime figures, that we can really put a dent in their activities.

The 1986 request for the U.S. Attorneys and Marshals includes \$22.5 million in support of the Bankruptcy Amendments and Federal Judgeship Act of 1984, which authorized the creation of 85 new federal judgeships. This will fund some 457 positions to provide the attorneys and marshals that are needed in order to serve the new judgeships which have been created.

For the third consecutive year, the administration is requesting resources to continue our planned strengthening of the FBI's foreign counterintelligence program, and we are also allocating \$1.7 million to continue the operation of the National Center for the Analysis of Violent Crime. This is the latest of several innovations during this Administration to improve our ability to cooperate, on a national basis, with local law enforcement in the solution to difficult crimes.

We also have in our appropriation monies for the new facility, a dormitory and classroom facility, at the FBI Academy, as well as a requested increase of 371 positions and a little over \$34 million for the highest priority FBI field programs.

We are seeking for 1986, \$67 million for state and local assistance as authorized in the Comprehensive Crime Control Act of 1984, which will permit the Office of Justice Programs to have about the same level of funding for these local programs, 80 percent will be formula grants and about 20 percent will be discretionary grants.

You will note in the budget that we have included program increases of a little in excess of \$35 million for federal prison expansion and modernization. This will accommodate the expanding prison population, and will enable us to decrease the overcrowding that we are presently experiencing. This is a continuing phase of an ongoing program for the expansion of the federal prisons, which has been in effect for three years.

We also are expanding our program for agreements with state and local governments for correctional facilities, and are providing for some building programs with local jurisdictions which will guarantee to us through fiscal year 1986 nearly 3,400 guaranteed prisoner spaces, primarily in local jails, which we have the ability to use.

#### EFFORTS TO REDUCE THE DEFICIT

The increases that are proposed in 1986 generally focus on the criminal enforcement aspects of the Department's activities, but there are many other activities that are also being supported, including our efforts to protect the public treasury from fraud as well as to continue our debt collection program.

Our antitrust activities support the Administration's efforts at deregulation, and we are viewing future decisions with respect to the promotion of effective competition in the United States in an era of global markets and in respect to the competitive enterprises of other countries that operate in a world market.

We will continue our energetic and vigilant defense of civil rights for all Americans. We will also continue our expanded enforcement of the laws designed to protect the environment. These are just a few examples of the very important civil litigation and civil law activities of the department.

Congress has provided the Justice Department over the past three years with the resources to address these kinds of problems, and we feel that the investment of personnel and improved technology has been such that it will be sufficient to address these important activities during 1986. I think it is important to note that through improved technology and improved productivity among our people, we are able to make reductions in some areas of the Department's budget, in line with the Administration's efforts at deficit reduction, while at the same time expanding our efforts, particularly in the law enforcement area.

As I mentioned, the 1986 budget does reflect management savings in a number of areas, which are listed in my prepared statement. It includes some savings that are made possible through the implementation of the Grace Commission recommendations as well as some consolidations and streamlining of our federal field forces.

#### CONTINUATION OF PCOC

One of the things that we are seeking continued funding for is the President's Commission on Organized Crime. This Commission was scheduled to expire in July of this year, but the President has just signed an extension of this executive order, which will continue the commission in existence until April 1, 1986, at which time we would expect to have their final report. A supplemental request

for \$635,000 is now pending, which will take care of the remainder of this year, and then an additional amount will be necessary to continue its work through April of 1986.

Mr. Chairman, we believe that this budget request will enable the Department of Justice to continue aggressive programs directed at combating all forms of crime, and carrying out our responsibilities under the civil law. It represents a modest net increase over the 1985 budget, but this increase is necessary to meet our law enforcement needs. We look forward to working with this Congress toward achieving the goal of insuring the safety and providing justice to the people of this country.

I thank you for this opportunity to be with you this morning.

[The prepared statement of Mr. Meese follows:]

## DEPARTMENT OF JUSTICE

STATEMENT OF THE ATTORNEY GENERAL  
EDWIN MEESE III  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE  
THE JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Committee:

I am pleased to be with you today to discuss the 1986 budget request for the Department of Justice. As you know, this is my first opportunity to testify before this Committee as Attorney General and I am looking forward to working with you, Mr. Chairman, and the other members of the Committee in the years ahead.

Though I was not at the Department of Justice during the time in which this budget was formulated, I have followed the programs and activities of the Department closely for the past four years and I fully support the initiatives that the President has proposed for the Justice Department.

This budget maintains our commitment to strengthen important law enforcement functions including enforcement efforts directed against drug trafficking, illegal immigration and threats to our national security. A significant portion of the budget increase will provide full year funding for initiatives required to implement the Comprehensive Crime Control Act of 1984 such as the bail reform, drug diversion and Assets Forfeiture Fund provisions of the Act. The Department will continue to expand federal prison facilities and activate a new detention center for illegal aliens in 1986. The proposal before you also contains funds for a

program to assist State and local criminal justice projects, some of which can be targeted toward juvenile justice initiatives. Many items in the 1986 request extend activities which will begin in 1985 through proposed supplemental funding. As I discuss the 1986 request in greater detail, I will emphasize those items which we intend to implement during this year.

This request represents an increase of 62 percent or \$1.46 billion, over the Justice Department's budget of \$2.34 billion in 1981. The lion's share of this four year increase has been directed toward the criminal enforcement activities of the Department such as the President's fight against organized crime and drug trafficking which continues to gain momentum. We are encouraged by the recent indictments of five men in New York who were acting as part of a commission which controlled an organized criminal network. We look forward to many more indictments of this nature in the years ahead.

The Organized Crime Drug Enforcement Task Forces are indicative of the type of coordinated law enforcement activities that are contributing to this success in our constant struggle to secure our citizens from organized criminal elements, narcotics traffickers and the related violence they spawn.

The joint activities of the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA) are another prime example of the efforts that this budget will support. The granting of concurrent jurisdiction for narcotics investigations to the FBI has resulted in approximately 800 joint DEA/FBI

investigations with 400 Title III wire tap investigations since 1982. These programs have opened the door to the higher echelons of drug trafficking organizations. Our successes in these areas have so angered the leaders of these organizations that they have, in essence, declared war on the DEA and other agencies involved in these enforcement activities. It is at this level that federal enforcement efforts will have the most damaging effect on these criminal organizations. It is also at this level that pressure must continue to be applied against these organizations in order to dismantle the infrastructure upon which they are based.

These and other efforts have been successful in a significant part due to the support given by this Committee and Congress. We must continue to join forces in countering the threats to our domestic security mounted by these organized criminal elements. This budget will continue to support our efforts in these most important enforcement activities.

Mr. Chairman, I am requesting today a budget of \$3.8 billion and 62,281 positions. This is a net increase of 455 positions and \$34 million over the resource level anticipated for 1985.

Officials from the Department will be available to answer specific questions you may have concerning programs under their direction during other hearings. However, I would like to outline some of the most significant initiatives of this request.

The President's budget requests \$70 million in 1986 to implement various provisions of the Comprehensive Crime Control Act of 1984. This will provide full year funding for 837 new positions for which recruiting and placement will begin in 1985. Nine appropriations of the Department of Justice will share in the requested funding: U.S. Attorneys and Marshals, Federal Bureau of Investigation, Drug Enforcement Administration, Federal Prison System, Office of Justice Programs, Criminal Division, Fees and Expenses of Witnesses (for Protected Witnesses), Assets Forfeiture Fund, and General Administration. Many of the enhancements I will be addressing are based on implementing the various aspects of this significant piece of legislation.

In response to this legislation, the Department recently established the Crime Victims Fund which will be managed by the Office of Justice Programs. As receipts materialize, the Department is authorized to grant up to \$100 million in 1985 and 1986 for State, local, and federal victims programs. The Fund's primary source of receipts is criminal fines collected from persons convicted of offenses against the United States. Federal victims programs may be allocated up to five percent of the Fund's receipts.

In order to implement the provisions of the Comprehensive Crime Control Act of 1984 which established the Department of Justice Assets Forfeiture Fund, the Department is requesting authority to use up to \$5 million of these proceeds in



1985 to begin a more aggressive forfeiture campaign. For 1986, we are requesting authority to utilize up to \$20 million of proceeds for these activities.

This is an important continuation of the Department's efforts to combat two of the most serious crime problems facing the country: racketeering and drug trafficking. By attacking the economic power that sustains criminal enterprises and, in turn, using the very same resources against these criminals, the Department will strengthen its ability to dismantle major criminal organizations without diverting enforcement resources to bear the expenses of storage, care, and sale of forfeited assets. State and local law enforcement agencies, which assist in drug asset forfeiture activities, will also benefit from the seizures as a result of the law.

The 1986 request for U.S. Attorneys and Marshals includes \$22.5 million in support of the Bankruptcy Amendments and Federal Judgeship Act of 1984 which authorized the creation of 85 new Federal Judgeships. These funds will provide full year funding for the 457 positions we expect to fill this year. This will allow us to present cases before the new judges, to provide security within the courtrooms and to handle federal prisoners. For the U.S. Attorneys, \$20.1 million will provide full year funding for 199 Assistant U.S. Attorneys and 199 support personnel. The remaining \$2.4 million will provide funding for 59 additional Deputy U.S. Marshals.

For the third consecutive year, the Administration is requesting resources to continue its planned strengthening of the FBI's Foreign Counterintelligence program.

The FBI is also planning to reallocate permanently \$1.7 million to continue operation of the National Center for the Analysis of Violent Crime. The Center was established in 1984 with resources provided by various components of the Department of Justice. It is anticipated that the Center's research will continue to focus on unusual crimes such as serial murder, with findings to be disseminated to the national law enforcement community through training and direct operational support. The 1985 appropriation includes funding for site preparation for a dormitory and classroom facility at the FBI Academy in Quantico, Virginia. An uncontrollable increase of \$10.3 million is requested to permit construction of this 250 bed facility in 1986. Finally, the requested increase of 371 positions and \$34,535,000 will be directed toward the FBI's highest priority field investigative programs.

For 1986 we are seeking a total of \$67 million for State and local assistance as authorized in the Comprehensive Crime Control Act of 1984. This will permit the new Office of Justice Programs to provide about the same level of funding as

is available in 1985. Eighty percent, which equates to \$53.6 million, will be available for formula grants and twenty percent, or \$13.4 million, will be available for discretionary grants. The State and local assistance program is principally targeted at specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on violent crime and serious offenders.

Program increases totaling \$35,665,000 are requested in the 1986 budget for federal prison expansion and modernization. A year ago, the federal prison population was 31,172 and the federal prison system was experiencing a 24.4 percent rate of overcrowding. The federal prison population, as of March 3, 1985, was 33,427, which represents a 7.2 percent increase over last year, and the federal prison system is currently experiencing a 34.1 percent rate of overcrowding. For 1986, the average daily population of the federal prison system is expected to reach 33,790.

This continuing growth in the federal prisoner population results from the vigorous investigation and prosecution of serious federal offenders under the Reagan Administration.

The 1986 request includes: (1) \$16.5 million to construct 286 new bedspaces at five existing federal prisons; (2) \$5.3 million to improve inmate living conditions at existing institutions; (3) \$3.8 million to expand core facilities, such as

food and medical services facilities, to accommodate increasing population levels; (4) \$4.4 million for major renovation projects and to initiate the first phase of a series of fire safety improvement projects at several institutions; and (5) \$5.7 million to continue converting and renovating the Leavenworth, Kansas, and Atlanta, Georgia, penitentiaries to smaller, more modern institutions.

The Federal Prison System plans to activate the Oakdale, Louisiana, Alien Detention Center early in fiscal year 1986. The Center will add 1,000 bedspaces for the housing of longer-term illegal alien detainees under the custody of the Immigration and Naturalization Service. In addition, prior construction projects will result in the activation of 1,148 bedspaces at 10 existing federal prison system facilities.

We are also requesting \$5 million for additional cooperative agreements with State and/or local correction facilities. Since the program's inception in 1982 and including the proposed 1986 funding, about \$55 million will have been provided to State and/or local governments for rehabilitation, modernization and construction of prisoner bedspace. With these cooperative agreements, the U.S. Marshals Service estimates that through fiscal year 1986 nearly 3,400 guaranteed bedspaces, primarily in local jails, will have been secured for the housing of federal prisoners.

Though the increases proposed in 1986 generally focus on the criminal enforcement activities of the Department, this request also supports the continuation of efforts in many other critical programs. We are continuing our efforts to protect the public treasury from fraud and abuse and are proud of our past and present debt collection program. Our antitrust activities support the Administration's efforts at deregulation and we must view future decisions with respect to the promotion of effective competition in the world market. As I have recently stated, the Department will continue the energetic and vigilant defense of the civil rights of all Americans. We will also continue our expanded enforcement of laws designed to protect our environment. These are just a few of the examples of the significant civil litigation issues that the Department is routinely involved in and upon which we will continue to place emphasis in the future.

Congress has provided the Department with resources to address issues such as these over the past three years and I believe this investment of personnel and improved technology will be sufficient to allow us to address these important activities during 1986.

The Department's 1986 budget reflects management savings in a number of areas. There is a reduction of about \$69 million

related to the Administration's proposal to reduce federal employees salary by five percent beginning in January 1986.

The 1986 budget also reflects savings of 50 positions and \$1.6 million in the Immigration and Naturalization Service (INS) related to the Grace Commission's recommendation that INS' Central and Regional Office administrative staffing be reduced. The Administration, in consultation with the Attorney General and the Commissioner of INS, agreed to a two-year phased reduction plan totaling 200 positions and \$6.4 million. Congress affirmed the first phase of the reduction (150 positions and \$4.8 million) which was proposed in the President's 1985 budget.

The 1986 budget reflects an additional \$17.4 million in management and administration reductions. These overhead cost reductions are based on Government-wide analyses that show significant opportunities for cost-cutting in overhead program areas.

Funding for juvenile justice projects is available in our Office of Justice Programs appropriation. Accordingly, we propose to eliminate the separate line item funding in 1986 (67.6 million). We continue to propose that the Regional Information Sharing Systems be funded by organizations benefitting from their activities rather than from Department resources. Funding has not been requested for the U.S. Trustee program (\$9.4 million).

Based on recommendations contained in a General Accounting Office report issued in 1984, we are proposing a reduction of \$5 million in directly appropriated funds for INS inspectional overtime at airports. This funding will be supplanted by \$5 million in reimbursements from the air carriers for INS inspectional overtime and this reduction will not have a detrimental effect on the Inspection program.

Executive Order 12435 specified that, unless otherwise extended, the President's Commission on Organized Crime will expire on July 28, 1985. The President has just signed an extension of this Executive Order which extends the Commission until April 1, 1986. A supplemental appropriation request of \$635,000 now pending should enable the Commission to sustain its ongoing work through the end of 1985.

Mr. Chairman, I believe this budget request will enable the Department of Justice to continue aggressive programs directed at combatting all forms of crime. This request represents a modest increase over the 1985 budget but this increase is necessary to meet our law enforcement needs. I am looking forward to working with this Congress toward achieving the goal of ensuring the safety of the American people.

## POSSIBLE REORGANIZATIONS

Mr. SMITH. Mr. Attorney General, I have observed over the years—this is the seventh President I have served under, or with, however you want to put it. Every President and every Cabinet member always likes to have a different organization than their predecessor had. You are not new to law enforcement and you are not new to this Administration, so you have had an opportunity to observe before you got to the office. Do you have any ideas now of a different table of organization? I mean, they have all wanted to reorganize the drug enforcement activities and so forth. Do you think we are pretty well set for 1986, or do you have some ideas?

Mr. MEESE. Mr. Chairman, I think the basic functions of the Department will remain essentially the same. I think there will be a realignment of some functions because of the people that the President has nominated for Deputy Attorney General, Mr. Jensen, and the Associate Attorney General, Mr. Reynolds. It would seem desirable to realign the reporting relationship among the functions in the Department to utilize the expertise of these two gentlemen. At such time as we make those decisions, we will certainly notify this Committee and the Congress of any proposed changes.

Mr. SMITH. You don't foresee any difference in the T.O. for drug enforcement, then?

Mr. MEESE. Other than the addition of the personnel that are requested in the budget, I don't see any major changes.

## AMENDMENTS TO THE COMPREHENSIVE CRIME CONTROL ACT

Mr. SMITH. We have what is now known as the Comprehensive Crime Control Act of 1984, which is a 600-page amendment that was added to the continuing resolution, about 10 o'clock one night, October 1st. Of course it was added to the part that we deal with in this Committee, and I am sure with all the new programs that are involved there, you may find some problems.

Senator Rudman and I sat down with Members of the Judiciary Committees and we just picked sections out, and changed a few words here and there. I am sure there are going to be some problems. Have you had a chance to look at it in detail, and do you foresee any problems involved?

Mr. MEESE. There are some minor problems, Mr. Chairman, of language, for the reasons you have stated. I must say, though, that I would certainly commend you, Senator Rudman, and the other Members who participated in that late night activity, because basically the Comprehensive Crime Control Act came out very well, and is certainly a major step forward as far as giving the Department and other agencies of the Federal Government the ability to combat crime.

There are some small technical corrections which need to be amended. These will be submitted by the Department in the near future. I think they will be generally, if not entirely, noncontroversial, and with those few changes I think the Act will be in excellent shape.



## CRIME VICTIMS FUND

Mr. SMITH. We have some radically new programs, for example, the Victims of Crime fund. Do you see any problems there, or do you have an idea yet how you are going to set it up and how we are going to administer it?

Mr. MEESE. Yes, Mr. Chairman. This program will be set up under our Office of Justice Programs. We have a good deal of experience, not in the Federal Government but in state governments, as to how these funds have operated throughout the country, and essentially the genius really of the Victims Compensation Fund at the federal level was to utilize the state levels rather than setting up a competing system of our own.

So, in essence, what we will be doing is making grants to the various state funds, which will then compensate victims of both state crimes and federal crimes. While there is some money available in this fund which will be provided to the states, and I mentioned in my opening statement, some 5 percent will be utilized by the Federal Government for specific programs that we will be undertaking and which the states will be undertaking to assist the victims and witnesses of crime.

Mr. SMITH. Does that mean there will be an advantage in being robbed in one state instead of another?

Mr. MEESE. Well, I think one of the things that the federal funds will do will be to stimulate victim and witness or victims' compensation programs and victim/witness assistance programs in virtually all states, and indeed that is a growing trend, and one of the things the Department will be doing will be working with the states in those places where they don't have these programs established already.

## BANKRUPTCY AMENDMENTS AND FEDERAL JUDGESHIP ACT

Mr. SMITH. Eighty-five new judgeships were recently authorized. Are they going to be filled, and how soon?

Mr. MEESE. We are working at the present time to fill them as rapidly as possible. We are working particularly with the Senate Judiciary Committee, which has the responsibility initially of processing these on behalf of the Congress, and we are hoping to fill them as rapidly as we can.

Many of the names are now being processed so that they can be presented to the President as recommendations for him to then nominate to the Senate. It would be our hope to move just as quickly as the committee could accommodate them.

Mr. SMITH. Do you think you will have them all nominated in this fiscal year?

Mr. MEESE. We would certainly hope to, yes, Mr. Chairman.

## HOSTAGE RESCUE TERMS

Mr. SMITH. We are going to observe the five-minute rule this morning on the first round. Then we will have another round. Mr. O'Brien.

Mr. O'BRIEN. Thank you, Mr. Chairman.

Good to have you here, Mr. Attorney General. We all have certain areas that we are especially interested in, and I know you are not in the role as long as, perhaps, would justify our concluding that you know everything about it. My particular concern is a very painfully parochial one. Father Martin Lawrence Jenco, who was the second last kidnaped from Beirut in, I think, the first week in January, and is a personal friend of mine. It is a family of 10 friends. They have been supporters. They are just a first-class group of people. I am at my wits end trying to figure out what we can do for Father Jenco. Admittedly, we don't know where he is, nor specifically who has him, but it seems to me that the FBI has in the past had a category called the Hostage Rescue Team, training some of your special agents for, I suppose, projects that I would like to see them undertake.

Do you have any personal awareness of how that is going?

Mr. MEESE. You are talking now about the hostage rescue team?

Mr. O'BRIEN. Yes.

Mr. MEESE. For use within this country?

Mr. O'BRIEN. Well, is it restricted to the continental United States?

Mr. MEESE. Mr. O'Brien, the Hostage Rescue Team does operate within this country. The same capability exists elsewhere in the government, to handle any situation that might occur outside the country where our forces could legally and legitimately be utilized. I think the problem is, as you suggested in the specific case that you mentioned which I am very much familiar with in my role as a member of the National Security Council to locate the victim. Every effort in a variety of ways, through intelligence sources, through military and national security sources, as well as through diplomatic sources, is being exercised to locate and to return the four kidnaped Americans who are in the hands of groups arising out of the Beirut situation. But I can assure you that every effort is being made, and this is a matter where the President is personally concerned, and literally on a daily or very frequent basis questions the progress that is being made.

This is a most difficult problem to solve. If there were the necessity for FBI training, for example, of units to respond from any other department of government, that training would of course be available, but I know from personal experience in witnessing the military units that are being trained that we have adequate capability both for international as well as for domestic use in these kinds of situations.

Mr. O'BRIEN. When General Dossier was rescued, it is my impression that we were ready to supply support and help to the Italian Government if it asked for it. It evidently didn't need it, but is that a condition that is continuing?

Mr. MEESE. That is a condition that is continuing, and actually our capabilities in that regard have been expanded as the years have gone on, and as we have exchanged information with other governments and learned more about the techniques that might be utilized to protect and to recover captured United States citizens.

## JUVENILE JUSTICE PROGRAM

Mr. O'BRIEN. One other area that I particularly wanted to ask you about. I think the appropriation for juvenile justice is being zeroed out at this time. Again getting very parochial, but I know what I am talking about in that area. Back in Joliet we have a very good Job Corps, remarkably competent, well managed by a man named Jim Daniels. Forty-five percent of those young people have arrest records. They come from the most disadvantaged of backgrounds. They are not the easiest people to place, and as a consequence, they probably cost more to develop and bring back into the mainstream of the system.

I think, frankly, that with the possible exception of health services, this committee has been very strong in its support of the Department of Justice over the years since I have been on it under this chairman and the previous chairman. I am concerned that juvenile justice is being zeroed out right now.

Mr. MEESE. The juvenile justice programs, Mr. O'Brien, are being only eliminated as a line item. Under the \$67 million which has been provided to the Office of Justice Programs for general grants, a share of that money can be used, and is intended to be used, for juvenile justice projects.

The purpose of this is to have a single fund out of which the grants are administered, rather than having separate grants for a variety of different subjects. So this is a matter of continuing the availability of funds for advantageous programs in the juvenile justice field. We will be continuing the juvenile justice function within the Office of Justice Programs as an identifiable function, and the funding will come out of the common justice program fund as part of the grants to state and local governments.

Mr. O'BRIEN. Thank you, Mr. Meese.

Mr. Chairman, I have some other questions but I will yield for the present to other Members.

## ADMINISTRATIVELY UNCONTROLLABLE OVERTIME

Mr. SMITH. Mr. Early.

Mr. EARLY. Thank you, very much.

I want to welcome you, Mr. Attorney General. I certainly wish you well.

There are several areas I want to get into, but let me go to the most recent report. How much money have you requested in the FBI, DEA, and INS accounts, for administratively uncontrollable overtime?

Mr. MEESE. The exact amount I would have to refer to my colleagues here, but I believe it is contained in the report which was submitted to this Committee previously. The amount is \$75 million.

Mr. EARLY. Regarding this \$75 million, Mr. Attorney General, I don't think it is excessive. I think the agents that receive it, are probably eligible and should get it. What I am concerned about, which is discussed in the report that has recently been submitted to this Committee by the Justice Department, is that there are 14,045 people eligible for this overtime. The whole 14,045 people receive the entire amount. My question is, as it has been to previous Attorneys General, why not increase their basic salary?

Mr. MEESE. The reason for doing it this way, basically, is that if you did this, it is possible you would create an imbalance of salaries within the Department. There are some people assigned to investigative activities primarily, and to the supervision of investigative activities, who do need this additional overtime. If you just increased the salaries, then their basic salary would be out of whack with other salaries of people for whom the overtime is not appropriate.

Mr. EARLY. But, Mr. Attorney General, this report is exclusive in that everyone in each particular function gets exactly the same amount. If it is an agent, he receives the total amount he is eligible for. It isn't as it was selective. I have asked this of previous Attorneys General, and they have all suggested that it probably should be done. The reality may be they can't get it through the authorizing committee. I think it is misleading to pay overtime when we should just increase the base salary.

Mr. MEESE. This is a very common way of handling it among law enforcement agencies, not only in the Federal Government, Mr. Early, but also for state and local governments. It is a means of identifying the fact that you are compensating people separately, because you do recognize the fact that they do put in considerable amounts of overtime.

Mr. EARLY. Why not simply change their base salary?

Mr. MEESE. Perhaps this could be done, but again, it would appear to show a disproportionate amount of compensation for certain agents and other people, even though all in those classes receive it, but as opposed to other people in the Department who are in law enforcement functions which don't require the overtime.

For example, in the Immigration and Naturalization Service, certain categories that are listed as eligible do get the overtime, but there are other people in INS who are performing other law enforcement functions who are not eligible.

Mr. EARLY. Yes, but according to your report, everyone that is eligible in INS received it.

Mr. MEESE. But we have only put in as people who are being eligible those who should get it.

Mr. EARLY. That is a matter of judgment. We had the Parole Commission testify before us, and they suggested that they only allow their overtime to go to people earning less than GS-9. I agree with that. I think it is the administrative people and the paper-work people, who put in as much overtime as any agent.

#### REVIEW OF HUNG JURY TRIALS AT DEPARTMENT

Mr. Attorney General, in Massachusetts we recently had a trial. I believe U.S. Attorneys should have autonomy, but I am also concerned that you can't get acquitted today. I think it is harder to get acquitted than anything else. This particular case it was a hung jury. It was a white-collar crime. The newspaper reported that it was 11 to one for acquittal. They retried the case, and he was acquitted.

After the first trial, before he had even left the courtroom—before he had gotten back to his office—the U.S. Attorney said, "We will retry him." During the second trial, when the jury was

out for 14 hours, there was a joint meeting—according to the newspaper account—and the U.S. Attorney and defense lawyer attended. The defense lawyer said it probably appears there will be another trial, another hung jury.

The U.S. Attorney said, "If there is, we will retry, and if there are 10 hung juries we will retry 10 times."

To me, Mr. Attorney General, that is totally irresponsible. If the U.S. Attorney has a hung jury, does it come back to the Justice Department in any manner? What is the normal procedure?

Mr. MEESE. Generally it does not, Mr. Early. I would say, however, if there were 10 hung juries, then we might want to take a look at whether the funds and resources of the Federal Government were being properly utilized; but that rarely, if ever, has happened.

Mr. EARLY. In this case, the newspaper account says that the defendant that was acquitted spent \$500,000 in legal fees. I don't know how much the Justice Department spent. I simply would like to suggest that a U.S. Attorney is irresponsible not to go back and weigh all the criteria before he brazenly says, "We will retry 10 different times."

Mr. MEESE. I would agree with you that it ought to be carefully weighed. When you have a hung jury, as a trial attorney myself for many years, I can also understand the attitude of the U.S. Attorney or the Assistant U.S. Attorney, when he received that verdict. But I think that by and large—and I can't comment on this particular case because I don't know all the facts—our U.S. Attorneys do use a good deal of discretion.

The fact that you mention that it is hard to get an acquittal I think is an indication that they are carefully evaluating the cases before they charge them in the first place, and before they take them to trial in the second place. I think that is a good thing.

Mr. EARLY. I think they have done that, but I also think that there is room for reassessment and improvement.

Thank you, Mr. Chairman.

#### ENFORCEMENT OF ENVIRONMENTAL LAWS

Mr. SMITH. Mr. Dwyer.

Mr. DWYER. Thank you, Mr. Chairman.

Good morning, Mr. Attorney General.

Mr. MEESE. Good morning.

Mr. DWYER. You mentioned in your statement an increased activity in enforcing our environmental laws. I wonder if you would expand on that particular statement and tell us what you have in mind.

Mr. MEESE. We have been very vigorous in the past several years in taking on cases that are referred to the Department, and particularly to our Lands and Natural Resources Division by the Environmental Protection Agency, to make sure that violations of the Clean Air and the Clean Water Acts are vigorously prosecuted. More recently a great deal of effort has gone into the whole area of toxic waste and hazardous wastes.

As a result of this, we have many cases either filed or contemplated where we have been able to have a correction of the situation of the hazardous waste dumping, and so on, by the people re-

sponsible, often as a means of settling a case without even having to go to trial. They acknowledge their responsibility, and then take the necessary steps to clean up the hazardous waste.

Mr. DWYER. Do you see the specter of organized crime beyond the disposal of toxic and hazardous waste?

Mr. MEESE. I see the potential for that. I don't know of any case where it has been proved that there was organized crime involved, but we do know the whole matter of disposing of hazardous waste involves a great deal of money, and where there is a lot of money involved the potential for organized crime activity is great.

So we have been particularly vigilant to handle these cases on their own merits, which require a vigorous prosecution effort on our part, but also we are very alert to the possibility of organized crime being involved in the transportation or disposal of hazardous waste.

Mr. DWYER. Is your department going to initiate a special effort in this particular area?

Mr. MEESE. Yes, we are. Our people who are working on these cases are very alert to any indication of organized crime involvement. Should that ever appear, the Lands and Natural Resources Division, which normally handles these cases, would call in the Criminal Division so that they would have the additional expertise in the organized crime area from the specialists in that field.

#### MEETING WITH MEXICAN ATTORNEY GENERAL

Mr. DWYER. Recently the newspapers carried an article where you met with your counterpart from the country of Mexico. Could you expand on that meeting for the benefit of this committee?

Mr. MEESE. Yes, Mr. Dwyer. We were very gratified by the prompt response that the Attorney General of Mexico made to our invitation. He was here, less than a week after receiving our invitation. We had a five-hour meeting, in which we explored all aspects of the problem, and along with other law enforcement officials, the head of the DEA, the head of the FBI, the head of our Criminal Division, my acting Deputy, Mr. Jensen, and others. We explored how we can do more to support the honest law enforcement agencies and officers in Mexico, how we can assist them in their efforts to combat those corrupt officials within their own country, how we can do more against the drug trafficking gangs that exist in Mexico, and how we can work together on the program to eradicate the growing of the narcotic plants.

Our feeling is that this was a good first step. We will be sending, in the very near future, top leaders from the Department of Justice to Mexico to continue this effort, and in effect both to implement the decision that we made at this meeting and, if you will, to be sure that we are continuing our pressure against the drug trafficking gangs.

I also intend to meet again with my counterpart in Mexico within about six months to assess the progress we have made, and to see if other measures might be necessary.

Mr. DWYER. Concerning the eradication program, do we now supply the Mexican Government with equipment for the eradication program?

Mr. MEESE. Yes, sir, we do through the State Department, equipment and supplies, and we will be working very closely with them on the monitoring of the success of the program.

Mr. DWYER. Thank you. Thank you, Mr. Chairman.

#### ANTITRUST GUIDELINES IN WORLD ECONOMY

Mr. SMITH. Mr. Regula.

Mr. REGULA. Thank you, Mr. Chairman.

Mr. Attorney General, I am pleased that you are here this morning. I was interested—you mentioned in your opening remarks the difficulty in antitrust, particularly because we are in a world economy. I think we all recognize that those will be difficult calls, as you have to evaluate whether or not mergers are in the interests of competition and the interests of the United States while at the same time recognizing the competitive nature of the world economy.

My question is, are you developing or do you have under consideration some possible guidelines, and/or some legislative initiatives that would perhaps reform our antitrust laws to recognize the world conditions of 1985 and still provide an element of protection on the competitive nature of our economic system?

Mr. MEESE. Mr. Regula, we have been over the past three or four years reexamining and reevaluating our guidelines, in the light of the increased world competition, and we feel that at present the guidelines are pretty well up to date, although we will continue to review them on an ongoing basis.

It is for this reason, and because of the cooperative activity we have had with other agencies of the Federal Government that are involved in the antitrust field and in the economic field that we have taken their advice, and used that as one of the factors in evaluating mergers or other business activities which the Department is required to review.

We feel that at the present time there is no need for additional legislation, but, as with the other members of the Cabinet departments, we will be constantly reviewing this. If our analysis indicates that some changes in the laws may be necessary, we will certainly bring that before the Congress, but at present I think that the continual review and updating of our guidelines, and the way in which the laws are applied to particular situations does take cognizance of the global economy in which we operate, and is working satisfactorily.

Mr. REGULA. Do you anticipate that your policy will still be one of advocating joint ventures between competing firms, rather than mergers as a way to address the global competitive problems?

Mr. MEESE. Well, I think, again, it is a matter of handling these on a case-by-case basis, but the joint venture activity has been particularly profitable especially from a technology improvement standpoint in the research and development activities. I think that the greater ability to engage in joint ventures on R&D has been one of the major steps forward that the Department has taken in the last few years.

## DEBT COLLECTION PROGRAM

Mr. REGULA. I note in your statement that you mention protecting the public treasury from fraud and abuse, and that you are proud of your present debt collection program. I would be interested in what you can tell us about the success of this program, because I think one of the concerns of the public is the fact that they want everyone treated equitably, and we have seen some abuses in a number of different loan programs, where there simply hasn't been any effort to collect.

I would be interested as to what the outstanding indebtedness to the United States Government is at the present time, and what you anticipate as a future policy in insuring that there is a vigorous collection activity.

Mr. MEESE. I can't give you the exact amount of the total indebtedness right now, because it is a composite of the debts owed to a variety of departments. I will be happy to get that information if I may submit it to you in letter form. But I can tell you as far as the policy is concerned, because as recently as last week I met with the advisory group of our United States Attorneys, and they were reporting to me on their efforts.

They are allocating a good portion of their resources in the various judicial districts to the collection of the debts. We have worked very hard so that there is no major backlog of the cases that are referred to us, and they know that this is the number one civil priority for their civil activities in their offices.

I exhorted them at this meeting and will exhort and pursue that as one of the measures of effectiveness of each of our U.S. Attorneys' offices as I visit around the country to see what they are doing in the debt collection area. We give this a very high priority within the Department, and it is a matter to which I have given a great deal of personal attention even in these few weeks.

Mr. REGULA. Are you satisfied that the existing statutes are adequate to allow you to vigorously pursue the debt collection program?

Mr. MEESE. They appear to be satisfactory, and to give us the necessary tools to do this. If at any time we see particular problems, we would be very quick to come in with remedial legislation, but right now we seem to be able to collect the debts.

The problem, frankly, is locating the debtors, which we are doing very assiduously, using some of the new techniques which the Congress has allowed us, including checking with the Treasury Department, IRS, and so on.

Mr. REGULA. Thank you, Mr. Chairman.

[Subsequent to the hearing, the following information was provided:]

## TOTAL INDEBTEDNESS TO THE U.S. GOVERNMENT

As of December 1984, the total delinquent debt owed the U.S. Government was \$49.6 billion.

## WITNESS SECURITY PROGRAM PROBLEM

Mr. SMITH. Mr. Carr.

Mr. CARR. Thank you, Mr. Chairman.



General, I think the questions I have would be more appropriate in a closed session, but let me just say that cases come to light in my district where a particular person under the witness protection program has apparently committed a murder, and I would like to privately discuss this with someone on your staff.

Mr. MEESE. I would be very happy to have someone contact you, Mr. Carr, and we will see that that is done as soon as possible, following the hearing today. I would be happy to pursue that with you.

Mr. CARR. I have no further questions at this time, Mr. Chairman.

#### COUNTERINTELLIGENCE PROGRAM

Mr. SMITH. Mr. Boland.

Mr. BOLAND. I want to welcome you, Mr. Attorney General. I am sure you will find your position to be very fascinating and interesting and, I am sure, controversial, but that is not a new position for you to be in. You have handled that pretty well over the long years you have been in public service.

Let me ask you a couple of questions about the FBI's counterintelligence program. I know that the budget figure is classified. I am familiar with it, but are you adding any additional FBI counterintelligence personnel in fiscal year 1986?

Mr. MEESE. Yes, we are.

Mr. BOLAND. You don't have to tell me the figure. Will that number be sufficient in your judgment to meet the considerable threat in this area? Will the additional counterintelligence personnel be new FBI payroll spaces, or will they be obtained by a reallocation of existing spaces?

Mr. MEESE. We are requesting new agents for the FBI as a whole, and some of these will be new positions in foreign counterintelligence.

Mr. BOLAND. Will personnel have to be added in the out-years beyond 1986 to this particular activity?

Mr. MEESE. I think that remains to be seen. One of the things, as you point out, is that the threat of foreign intelligence activities is increasing. The fact that we have so many people from potentially adversarial countries in this nation, both as part of the U.N. delegations and staffs as well as embassy staffs and otherwise, does pose a major espionage threat.

I would be surprised if we don't need to gradually increase our efforts on a continuing basis in future years, but we feel that the number of agents asked for in this budget will be sufficient or adequate to counteract this threat at the present time.

#### INTERPOL

Mr. BOLAND. Let me ask you one or two questions about INTERPOL, the international law enforcement activity. I understand that you are requesting by way of the fiscal year 1985 supplemental 27 new employees to be detailed to this activity. What are the advantages to the United States in doing this and do you find INTERPOL very effective? I have a feeling that oftentimes there is not

much cooperation between the United States and some of the other nations that are involved in INTERPOL.

Mr. MEESE. Mr. Boland, we find that it is effective. We find it is increasingly effective, as the United States has had more of a leadership part.

As you know, at one time it was only the Secret Service that was involved with INTERPOL. We now have both the FBI and the Secret Service involved. This year particularly we feel that we are making gains because the United States has the presidency of INTERPOL for the first time, and John Simpson, the Director of Secret Service, is its president.

In October of this year we will have the International INTERPOL Conference in this country, and I intend personally to address the conference and to meet with the leaders from the other countries to be sure that we do have the kind of cooperation that makes it worthwhile.

We have a very small allocation of resources to INTERPOL.

Mr. BOLAND. Should it be expanded?

Mr. MEESE. We feel that what we have in the supplemental budget would be adequate. This is a cooperative effort. We feel we get a great return on the investment of those resources, in terms of the exchange of information with other countries, in both apprehending fugitives and in general information about criminal activity.

One of the things that is a concomitant of Mr. Regula's statement about being in a world-wide economy, we also are in a world-wide arena of criminal activity. It is much easier for criminals to flee the United States or to have international operations, particularly in white-collar crime areas, and this is the area in which we work very closely through INTERPOL to exchange information with other countries.

Mr. BOLAND. Of course, one of the particular areas that is terribly important is drug enforcement. Can there be better coordination, or has there been adequate coordination between the nations that are involved in INTERPOL?

Mr. MEESE. There is some activity through INTERPOL in coordinating the activities. We also have bilateral relationships with the countries of origin, where drugs are manufactured and distributed, and we find that there because it is an ongoing operational activity, both in terms of eradication of crops and enforcement against specific criminals, we find that a good deal of our activity is on a bilateral basis, because the information is obtained by our DEA agents who are actually on the spot in those countries, because of the intensive nature of this particular type of crime, but INTERPOL is of help in certain instances in this field.

I would say, however, that its major value comes in the kinds of white-collar crimes, business-oriented crimes, those types of things where there is a great deal of international travel among the people that are involved in international activity.

The drug traffic is a more narrow focus really of our activity, but it is of sufficient intensity that it is worth our while to have our agents actually working with the governments of the countries of origin.

## GREETING TO W. LAWRENCE WALLACE

Mr. BOLAND. Thank you.

Mr. Wallace, is this your first appearance as the budget officer for the department?

Mr. WALLACE. Yes, sir, it is.

Mr. BOLAND. Well, we want to welcome you. You are replacing Kevin Rooney, who is a long-time friend of some of us sitting on this Committee, and he was an ideal budget officer. I am sure that you will be as successful as he was, and he was very successful as a budget officer.

Thank you very much.

Mr. WALLACE. Thank you.

## SUCCESS OF DRUG INTERDICTION PROGRAM

Mr. SMITH. Thank you, Mr. Attorney General. I am sure you know that this Committee has been very interested for years in drug enforcement, going back to the time when at one time—and you probably don't remember this, but at one time there was great resistance to us furnishing any agents outside the United States.

We have gotten over that, and we do have a world-wide drug enforcement activity which is absolutely necessary. But I wonder. We see the statistics about drug enforcement being more effective in Florida now. But is it just like a balloon, you press it in one place and it comes out another?

Mr. MEESE. There is a certain element of that, in the sense that when we concentrated our efforts in South Florida with the South Florida Task Force in 1982, the narcotic traffickers did increase their activity elsewhere. That was the reason why in 1983 and 1984 we expanded the South Florida concept, both within the United States through the Organized Crime Drug Enforcement Task Forces and the national narcotics border interdiction system, which has done what we did in South Florida in other areas of the country.

Virtually the entire border of this country is within the jurisdiction of one of these interdiction task forces. We have them stationed in various places, on the border on the Gulf of Mexico, the land border with Mexico, on the Pacific Coast and on the Atlantic Coast. So that through increased mobilization of the resources of the Federal Government, utilizing the Coast Guard to a greater extent than we have before, coordinating the efforts of the Customs Service and the INS, the Border Patrol, working now with military resources because of the action of this Congress in authorizing amendments to the Posse Comitatus Act we have a much greater effort. So while it still is a major problem, I would say we are containing it with far greater effectiveness than we ever have.

My acquaintanceship with narcotic activities really goes back in law enforcement over a quarter of a century, and I have never seen a greater allocation of federal resources nor better coordination of federal resources than we have at the present time.

Mr. SMITH. Well, our border is so long. I was down one night and flew with the Border Patrol. You go up there and you look down and throw a spotlight down there, and here are people coming across, and so you catch them. And an hour later probably there

are others coming in their place. You can't search the areas where you picked them up. They could have brought narcotics with them and dropped them there, and somebody behind them picks them up later. I think it is almost impossible to enforce without a lot of cooperation from the other countries, and that brings me to a comment.

You mentioned meeting with the Attorney General of Mexico. I was down there a few years ago before we started this cooperative program, and I was in his office in Mexico City. I happened to notice—I didn't bring the subject up but I happened to notice on the wall a map of Mexico. It included Oregon and California. Do we recognize the same border?

Mr. MEESE. I think we do recognize the same border, Mr. Chairman. I have seen maps of Texas that had about the same boundaries, and so I think we do.

#### INCREASED DRUG COOPERATION—INTERNATIONAL AND STATE AND LOCAL

Mr. SMITH. We do have an increase in activity coming through Central America, though, don't we?

Mr. MEESE. We have an increase in activity there. At the same time, however, we are now getting increased cooperation from some of the other countries in Central and South America. For example, with Colombia, which has always been a source of major problems, we now have the greatest cooperation with the government of Colombia we have ever had. As a matter of fact, President Betancour will be here next week and I will be meeting with him to talk about how we can increase our drug cooperation.

Mr. SMITH. Is that a rather new development?

Mr. MEESE. It is a very new development. You may remember within the last two weeks we had the first conviction of a major drug trafficker who was extradited to the United States from Colombia, a Colombian national, and this is new evidence of cooperation from that country.

Mr. SMITH. If we are having increased activity through Central America, for example, and it will come through other places too, isn't this all the more reason we ought to be depending more on state and local task forces, where they are willing to furnish a substantial share of the enforcement, or is that effective?

Mr. MEESE. We are doing that at the present time. Our Organized Crime Drug Enforcement Task Forces are working with state and local governments. We also have our FBI field offices, our DEA field offices and our U.S. attorneys working very closely with local agencies.

For example, I just came back from visiting one of our areas where the U.S. attorney and the local FBI actually are participating in a cross-designation program with local law enforcement, so that a local district attorney can try cases in federal court where he is particularly expert in the investigation of a particular matter, and vice versa. We are trying to encourage this.

Our Law Enforcement Coordinating Committees have been very effective in increasing the amount of joint activity that exists between local law enforcement and federal agencies.

At the same time, we have been able to concentrate the federal effort on the major traffickers, and particularly those that are engaged in interstate and international activity.

Mr. SMITH. I know, and you probably know, in recent years the Department has wanted to phase this state and local activity down or out, and I know it doesn't work some places. There is no question about that. But in some places it really works, and that is the reason we have tried to keep it alive. But where it will work—and you have to select your places and the people involved and what resources they are willing to put up—it really is a way to get a better enforcement, isn't it, for the dollar?

Mr. MEESE. It is a way. The joint efforts are very important. I think it is a matter of concentrating these joint efforts on major traffickers. It is not cost effective to take federal drug agents, for example, and having them accompany local law enforcement people making essentially street buys. But it is important where there are major drug trafficking rings operating in the local area to have the local police and the Federal agents cooperating in the investigation and apprehension of those major traffickers.

#### SPACE FOR THE D.C. U.S. ATTORNEY'S OFFICE

Mr. SMITH. I don't want to bring up something that is a small matter but I think I need to bring it up here, because I don't know how else to handle it right now. We have got this matter of the U.S. Attorney for the District of Columbia and his facilities. The judges want him out of the courthouse, and the relocation would be handled with a reprogramming. This Committee has had, I will say on the record, substantial problems with GSA over the years.

If GSA had their way they would have the whole U.S. Government north of Pennsylvania and east of the White House, and have you compete against yourself for office space. Then they charge more for the space we paid for 50 years ago, in all of these budgets, and that puts pressure on us to take it out of other things in the budgets.

The FTC came in for their budget hearing. They are just a block from the courthouse. They want a new space where they can all get under one canopy, and they have agreed that they wouldn't mind moving to some other location. That would be a wonderful place for the U.S. Attorney, better than what GSA found four or five blocks away.

We need some help, and I just leave it there. We need some help cutting across red tape in this government. It takes three or four years to get what we need to do in the next two months. If we need to, we will put a sentence in the appropriations bill, so that you can find the space that FTC needs, if that is the right decision, and cut across the whole thing and get it done. I wish you would devote a little attention to that.

Mr. MEESE. Mr. Chairman, I will be happy to personally look into this. I know very well the acting administrator of GSA, and if it takes some personal intervention, we will see what we can do.

Mr. SMITH. It isn't all his fault. I mean, after all, there is a law and it takes a lot of time, negotiating. Unfortunately, I found in

the past they negotiate for two years and come out with a worse deal than they could have come out with in the first week.

#### PRISON SPACE

In addition to that—and Mr. Early will probably want to ask some more questions about this, because he has been very interested in it—we have this problem of prison facilities and jail facilities, and we have been keeping alive the CAP program to help local governments with renovation of jails.

I think we have appropriated about \$50 million so far, which is a good program. I notice you are asking for \$35.665 million for new facilities, but none of that as I understand it, will be used to acquire facilities or improve facilities that the armed services have. Don't you think we could do more to use some of the facilities the armed services have?

Mr. MEESE. Yes, I do, Mr. Chairman, and indeed, that will be done separately from the amount of money that we have, which is specifically for the expansion of the Federal Prison System. We have under this administration, as you know, taken unused disciplinary barracks and military prison facilities and turned them over to state and local governments. We intend to accelerate that program as well as taking land which is the property of the Federal Government, and making that available for the construction of local and state jail facilities.

Mr. SMITH. Here again, I bring this up because you are the person that can do it. It takes time to declare something surplus, but we need to move on these facilities, and where we have been able to do it we have gotten facilities for a dime on the dollar. So we need to have some help here in the cutting across different departments of government, when we can find some facilities, getting it done, because we want to cooperate in that regard.

Mr. MEESE. May I just mention, Mr. Chairman, that, thanks to your efforts and the efforts of others in the Comprehensive Crime Control Act, it is now easier for us to do that, and we appreciate that.

Mr. SMITH. Mr. O'Brien.

Mr. O'BRIEN. Thank you, Mr. Chairman.

To follow up on that, Mr. Meese, it does seem that there are a lot of federal facilities that could be used in some fashion to handle, let's say, the least difficult-to-manage type of felon. Again, back in our area, there is a former military manufacturing facility lying idle, but it has a great big headquarters building. Something could be done with it.

#### REPLICATION OF JUVENILE JUSTICE PROGRAM

One other thing I want to ask you or discuss with you, I guess. In my district, the 4th District of Illinois, and it covers a good bit of Illinois, we have an interesting organization carrying the folksy title of "Aunt Martha's." It has a superb staff and is dedicated to helping young people in trouble. Those who have had previous experiences with the criminal justice system, instead of sending them to jail, the local police and the courts are turning them over to Aunt Martha's where they receive counseling and help.

We try to straighten them out, and our case is good and in many cases we get a result we want. They also consider pipelining them into the Job Corps, and it just occurred to me that maybe your department, maybe even you or others in your department could come out and see some of these things and get an idea, at least encourage them in the sense that they are trying to lift a burden off your back. I hope that maybe the department will take a look at organizations like Aunt Martha's, who really have no particular flag they are flying under, but are really doing a superb job in my area.

Mr. MEESE. Mr. O'Brien, I will certainly do that. One of the things that our Office of Justice Programs is trying to do is to pick up programs like that, find out what makes them so successful, and then make this kind of information available to other communities so that they can be replicated in other parts of the country, so I appreciate that suggestion.

#### LEGISLATIVE PROPOSALS

Mr. O'BRIEN. One last question, Mr. Chairman.

Mr. Meese, you may have touched on it when I was out of the room, I don't know. But in the State of the Union Message, the President cited three proposals he would like to see embodied in legislation. One involved reform of the exclusionary rule, another a change in the habeas corpus laws, and one with respect to the institution of the death penalty. Have these or any of these proposals gotten to Congress yet? Do you have any comments on them?

Mr. MEESE. All three of these proposals have been introduced, I believe in the Senate, and I believe will be concurrently introduced in the House, if they haven't been already. We will be advocating these proposals in the course of the congressional sessions this year.

Mr. O'BRIEN. We wish you well, Mr. Meese. We will try to be of help to you in any way we can.

Thank you, Mr. Chairman.

Mr. SMITH. Mr. Dwyer.

#### EXCHANGE OF MARIEL CUBANS

Mr. DWYER. Mr. Attorney General, just one question. How is the exchange program going with the Mariel Cubans being sent back to Cuba?

Mr. MEESE. Mr. Dwyer, we have initiated the program. It is on schedule. We have had two shipments, one of 23 and one of 28 excludables. We hope to expand this up to a rate of about 100 a month or more, and perhaps even larger numbers if necessary.

We have had some difficulties initially with petitions being filed in the courts, which have held up some of the people going. It is my understanding now that many of these appeals are being withdrawn, because we have been successful in getting decisions that they should be excluded, and we feel that it is on schedule, moving along, and will be accelerating in the months ahead.

Mr. DWYER. I asked the question, if I could be parochial, because New Jersey has 168 Mariel Cubans in our prisons, and it is a very, very expensive proposition for my State, which brings me to my

next question. There is no appropriation in fiscal year 1986 for the Federal Government to make a contribution towards housing any of these prisoners. Do you anticipate the program being completed during the fiscal year 1986?

Mr. MEESE. We anticipate it being complete to the extent of no longer putting a burden on local or state facilities. We feel that all of the excludables and the Mariel persons who are prisoners will either be returned to Cuba or will be assimilated into the federal institutions by that time, and that is the reason why no line item for that purpose was put in the budget for 1986.

Mr. DWYER. One further question. If that doesn't happen, can we expect a reprogramming from the department to reimburse the states for this?

Mr. MEESE. If that doesn't happen, we will take the necessary measures such as you suggest so that the burden doesn't remain with the states, right.

Mr. DWYER. Thank you, and good luck, Mr. Attorney General.

Mr. MEESE. Thank you.

#### FUNDING FOR COMPREHENSIVE CRIME CONTROL ACT

Mr. SMITH. Mr. Boland?

Mr. BOLAND. The Crime Control Act of 1984 will probably require some major changes for the Department of Justice, and the Attorney General. I think the Act made probably the most significant major revisions in criminal law over the past I don't know, a dozen years I guess. What are the most significant changes, and how does it impact upon the budget of the Department of Justice? Can you give me an idea, and if you can't, Mr. Wallace or anybody else can. What is the total amount of monies that you have requested as a result of the passage of the Crime Control Act?

Mr. MEESE. As a result of the Crime Control Act, we have requested—I mentioned it in my earlier statement.

Mr. BOLAND. You may supply that for the record.

Mr. MEESE. I will supply it for the record, but let me, if I may, in answering your question, indicate that certain aspects of it involve having more personnel for such things as the forfeiture provisions, as well as for the additional U.S. Attorneys and marshals that are required.

[The following information was submitted:]

#### COMPREHENSIVE CRIME CONTROL ACT OF 1984 FUNDING REQUEST

The Department initially requested 837 positions and \$70,000,000 to fund the Comprehensive Crime Control Act. This estimate was reduced to \$60 million following agreement on revised funding for the Assets Forfeiture Fund. These resources are distributed across nine appropriations as follows:

#### BACK-UP DATA—COMPREHENSIVE CRIME CONTROL ACT

Organization	1986		
	Pos.	FTE	Amount
Justice Management Division .....	12	12	\$2,500,000
Criminal Division .....	28	28	1,519,000
U.S. Attorneys .....	162	162	9,564,000
U.S. Marshals .....	315	315	12,056,000



## BACK-UP DATA—COMPREHENSIVE CRIME CONTROL ACT—Continued

Organization	1986		
	Pos.	FTE	Amount
Federal Bureau of Investigation.....	143	148	6,600,000
Drug Enforcement Administration.....	156	156	10,443,000
Federal Prison System.....			2,049,000
Office of Justice Programs.....	16	16	3,269,000
Fees and Expenses of Witness.....			2,000,000
Assets Forfeiture.....			10,000,000
Total.....	837	837	60,000,000

## STATE AND LOCAL ASSISTANCE FUNDING

Mr. BOLAND. There was an appropriation for fiscal year 1985, was there not, somewhere around \$65 million, in the area of state and local assistance?

Mr. MEESE. Yes, there is.

Mr. BOLAND. Has any of that been expended or obligated to date?

Mr. MEESE. We have not obligated anything under that fund. There were other funds for state and local programs from pre-existing appropriations, and those have been expended during fiscal year 1985 to date. We will be going forward and expending those 1985 funds on programs under the Office of Justice Programs.

Mr. BOLAND. I wonder if you would have the Department list for the record the types of assistance that will be granted to state and local entities to implement the part that they will play in the crime control package.

[The information follows:]

## STATE AND LOCAL FUNDING UNDER COMPREHENSIVE CRIME CONTROL ACT

For 1986, the Department has requested \$67 million for justice assistance programs. In addition \$100 million is available for the Crime Victims Fund. Both of these items provide assistance to state and local entities to implement the Comprehensive Crime Control Act. Other funds requested under the Comprehensive Crime Control Act are for direct federal funding.

## USE OF STATE AND LOCAL ASSISTANCE FUNDS

Mr. BOLAND. My understanding is that the request is for \$67 million in fiscal year 1986 for that activity.

Mr. MEESE. That is correct.

Mr. BOLAND. And I also understand that each state will receive a portion of that amount, is that correct?

Mr. MEESE. That is right. Eighty percent of that amount, which must be matched by each state, goes by way of general grants, and 20 percent by discretionary grants.

Mr. BOLAND. I would think that this would be a very important aspect of that act, and I would hope that the funds that will be utilized by the states and local communities will be directed toward those areas which that act pointed out were the most serious problems.

Mr. MEESE. We feel that they will, Mr. Boland. Those funds are to be utilized in some, I believe it is 18 areas, where in the past the

LEAA funds were found to be most effective at the local levels, so I think that will be carried out in the manner you suggest.

#### RESALE PRICE MAINTENANCE

Mr. BOLAND. Let me ask a question with respect to resale price maintenance. There was some discussion, as I understand it, by the Committee last year in this area, and I think all of us agree that that kind of agreement between the manufacturers and the retailers has an effect upon the American consumers. The Supreme Court has held that this practice, this type of price-fixing, is illegal. I am wondering whether or not the Department is moving in this area at all?

Mr. MEESE. As you will remember, Mr. Boland—

Mr. BOLAND. I wasn't here when the discussion took place last year.

Mr. MEESE. The Department was encouraged by the Congress not to attempt to change the law in this area, and we have been following the Congressional mandate in this regard.

Mr. BOLAND. I guess that is it. Thank you very much.

#### EMPHASIS ON JUVENILE JUSTICE PROGRAMS

Mr. SMITH. Mr. Attorney General, Mr. O'Brien expressed some reservations about the Juvenile Justice Act, and I know you have been in this field, and maybe you remember, or maybe you don't. You just mentioned LEAA. I guess this Committee would have to take the responsibility for killing LEAA.

In looking at the use of resources, we felt that was where they were used the least effectively. All kinds of excuses were used, if you put on the head of the application that it is for law enforcement, why then they got the money. Even some jurisdictions changed the color of their police cars, and they tried that out, and that gave them the right to money to buy police cars, radio equipment they didn't need and things like that.

However, we did find also that Juvenile Justice didn't have a separate line item. We depended on LEAA to give them that program, but they didn't do it. So then we started putting in a separate line item for Juvenile Justice. That is the way it got into the budget.

I want to question you, and I think Mr. O'Brien was indicating that, about expecting Juvenile Justice to survive under some grant of general authority or under block grants or whatever approach you use, because the run-away youth programs are not in every county. They don't need to be in every county. These kinds of programs that they have just don't have the constituency to compete for these funds on the state and local basis that the others do, and I want to question you about it, depending, as you have indicated you want to, on them getting what they need, because these programs are popular in the Congress.

Mr. MEESE. I understand that, Mr. Chairman, and Ms. Herrington, in the administration of these programs, I am sure, will try to see that Juvenile Justice gets a proper share.

I might point out that a program like the missing and exploited children's program, is specially funded within the appropriation

and will be continued on a national basis. We will make sure that in the local grants also there is appropriate recognition of the Juvenile Justice program.

Mr. SMITH. That is the additional thing I wanted to bring up, was that that night we did do quite a lot of work on this missing children's program, and we know there needs to be some changes there. It is not just resources. It is how they are organized.

Mr. MEESE. That is right.

Mr. SMITH. And so we would anticipate that you will probably want to change that somewhat. Mr. Early is coming back in just a minute, but I will recess for a minute.

[Recess.]

#### TERMINATION OF U.S. TRUSTEES PROGRAM

Mr. EARLY. [Presiding.] The Committee will come to order.

Mr. Attorney General, your budget request again assumes the termination of the U.S. Trustee Program. Was the termination of the program for fiscal year 1986 at the Department's request or at OMB's request?

Mr. MEESE. Mr. Early, that was a matter that was jointly agreed upon by the Department and OMB. We do not necessarily feel that the program will be terminated. The pilot program, we feel, has been successful. It was felt, however, that if it is to be continued, and the Congress may well continue it, that it should be separately funded.

In the past, it has competed for limited resources within the Department. We feel there should be a separate designation of funding for it.

Mr. EARLY. Separate from where?

Mr. MEESE. Separate from the total amount which has been allocated to the Department by OMB, and this would be, I believe it is about \$9.9 million that would be involved.

Mr. EARLY. I think it is \$9.378 million. Isn't it true, though, that the Department of Justice fiscal 1985 budget request submitted to OMB maintained the full \$9.378 million for the program, and in fact approved five additional positions?

Mr. MEESE. The feeling of the Department now is that if Congress should wish to provide an appropriation for that fund or for that purpose, we will be willing to carry it out.

Mr. EARLY. Fine, because both the Bankruptcy Bill and the Department of Justice reauthorization extended the U.S. Trustee's program through September 30, 1986. Neither the House nor the Senate Judiciary Committee had any problem with the authorization.

Are you familiar, Mr. Attorney General—I realize you are relatively new for so much to be thrust upon you with the Abt report and the past Attorney's General report with regard to this program?

Mr. MEESE. To the Trustee's program?

Mr. EARLY. Yes.

Mr. MEESE. I have not read the reports, but I have been briefed on the programs, and I think both the reports would indicate that

the program has been successful and that the pilot program does have a potential for the future.

It is also our feeling that if the program is expanded, as Congress may see fit to do when the next year of the pilot program is complete, that we would suggest that we look at some way in which it could be self funded out of the proceeds of the funds that are being reviewed in the course of the handling of the Bankruptcy Act.

Mr. EARLY. Mr. Attorney General, I was pleased with your response to Mr. O'Brien regarding the Juvenile Justice and the Delinquency Program. Are you substituting something to replace the Juvenile Justice and Delinquency program?

Mr. MEESE. We are including that in the overall grants for state and local governments. While you were out, I mentioned, in response to the Chairman's question, that we will be sure that the Juvenile Justice programs get an appropriate share of that total funding.

Mr. EARLY. Fine. Mr. Attorney General, I was pleased with your response to the Chairman regarding prisons. Let me just say that in my 11 years on this Subcommittee, I don't think there is any agency that is better run and better managed than the Bureau of Prisons. Also, in my opinion, in your Department, the agents and the investigators always get the publicity and the applause they deserve. Yet I don't know of an agency or a department that has better administrative people. I can't recall ever asking for or hearing anyone on this Committee ask for a report from your administrative people that they didn't get back in detail. I would like to commend you on the people that you have involved in that area.

Mr. MEESE. Thank you very much.

Mr. EARLY. I don't know why you don't want to give them any overtime.

#### DESIGNER DRUGS

Mr. Attorney General, there have been several news articles about the emergence of a so-called designer drugs, which I understand the Department cannot take any action on presently. Has the Department begun to examine this serious problem, and what can be done about it?

Mr. MEESE. Yes, we have, Mr. Early. These are situations in which chemists can change the molecular structure of drugs, and they no longer fit within the specific statutory or regulatory definitions of what is a prohibited drug. Our Criminal Division has an ongoing analysis of this problem and will produce either changes in regulations or, if necessary, propose changes in legislation so that we can cope with this so-called designer drug phenomenon.

Mr. EARLY. How widespread do you think the problem is, General?

Mr. MEESE. I think at this point it is limited to a few areas, but it could easily spread, and we will take the necessary regulatory and legislative steps to combat it.

#### LEVEL OF DRUG ENFORCEMENT RESOURCES

Mr. EARLY. Mr. Attorney General, resources for drug enforcement activities have been increased significantly over the past sev-

eral years. How do we determine what is an adequate or a satisfactory level of resources? Is there a point of diminishing returns?

Mr. MEESE. It is hard to tell. We have not yet reached the point where there is a point of diminishing returns in terms of the resources put in. I think one of the things that we are seeing is that it takes a while for the additional resources to really have an effect, but we have seen in the last two years particularly, large increases in the number of people who are apprehended for drug trafficking in organized crime. We have seen major increases in seizures of narcotics, and we have seen major increases in the number of convictions. I think that this is something we are monitoring very carefully, the results versus the resources allocated, and I think we will certainly not be seeking additional resources, if we feel we have an adequate number of people to contend with this.

Frankly, though, if I may elaborate, reducing the supply is only a part of the problem. We also have to work on the demand for narcotics, and this administration is working very hard on education, prevention and treatment programs to reduce the demand for narcotics. I might say we feel that some strides are being made. In the last two years now, we have had surveys of high school students show an actual decrease in use of narcotics among that age group, which is a hopeful sign for the future.

But in this area, both in the reduction of demand and reduction of supply, we still have a long ways to go before we will have licked this problem.

Mr. EARLY. Should we consider use of the Armed Services, Mr. Attorney General? I think this Administration has done a good job in working with for example, the Coast Guard. But should we also look to making this more extensive? It is such a major problem. We have such extensive borders. Should we look to use the Armed Services?

Mr. MEESE. We are using them, as you suggest, extensively now. We are using, for example, the AWACS planes to identify aircraft that might be carrying narcotics. We are using Navy ships at sea with Coast Guard crews helicoptered onto them for making arrests and interdicting the shipping of narcotics into this country. We have great cooperation from the Air Force in terms of its radar activities, as well as its surveillance planes.

We are also getting good cooperation from the Army on the loaning of helicopters to the drug enforcement agents, including the new Black Hawk helicopters which can almost approximate the speed of the low-flying small aircraft. So this is something that I will be monitoring very closely. Next month, when we have the first meeting of the National Drug Enforcement Policy Board, in which the Secretary of Defense will be participating, we will try to analyze whether there is a need for more support from the Department of Defense, and, if so, request it.

#### HUNG JURY RETRIAL POLICY

Mr. EARLY. General, with regard to the case I spoke about earlier—the U.S. Attorney in Massachusetts—I have problems with that. I really do. We all get involved in our own egos, in law enforc-

ment arrests and convictions. I think it is the Justice Department's responsibility, however, to go back and analyze this case to find out how much Justice spent and how much the defense spent. I would be very hesitant to retry something that was 11 to one for acquittal.

Mr. MEESE. I agree with you, as a general proposition, again without referring to the facts of a particular case. One of the things that we are doing now, and will increase, is an analysis throughout the Department and throughout the various judicial districts of what our results are and the way in which we handle cases. We are doing this so that we can get the best allocation of resources.

I would doubt that there are many times, I don't know, as I say, the facts of this case, but I doubt that there are many times when you have 11 to one for acquittal, that the case would be re-tried unless there were some major extenuating circumstances.

Mr. EARLY. Again, not using that as a specific case, just as a general principle, wouldn't it be a good idea to have any hung jury cases sent to the Department of Justice for further analysis? Then you would get an independent analysis. I am certain that U.S. Attorneys in some areas get involved personally, as much as anyone else.

Mr. MEESE. This is one of the things that you have piqued my curiosity about and one of the things I will find out is how many hung juries we generally get. One of the things we are doing now is meeting regularly with the Advisory Committees of the U.S. Attorneys on a regular basis so that we can have more interchange of ideas between the Department of Justice and the individual U.S. Attorneys and their representatives. This is one of the topics I will take up with them when I meet with them again in a month or so.

#### ADMINISTRATIVELY UNCONTROLLABLE OVERTIME

Mr. EARLY. I appreciate it. One point, and one question, Mr. Attorney General. Getting back to my earlier questions on Administratively Uncontrollable Overtime, it is my opinion from reading that report that it might be possible to fund each particular agency with the amount of money that they are supposed to get in overtime. Then maybe we would have more control over the appropriation. I don't know whether you would have to run through the legislative process. But this would seem more reasonable to me than having a \$75 million uncontrollable overtime account. I would think it is would be very tough for Mr. Neill, the Comptroller, to keep apprised of that continually rising account. I think we should look at the possibility of controlling the account in a different way.

#### ASSETS FORFEITURE FUND

My final question to you, before I yield back to the Chairman. The Department is requesting \$5 million in fiscal year 1985, and \$20 million in 1986 for the Assets Forfeiture Fund in the effort to begin a more aggressive forfeiture campaign. I can only speak for myself on this Committee. But I believe that some safeguards have to be implemented. I would be a big supporter of that type of scrutiny over the Fund.

I would think if we give you the \$20 million, you could pay for the whole Justice Department over the matter of a year.

Mr. MEESE. I agree with you, Mr. Early, and I appreciate your support, because we think that this is one of the major ways that we can combat the drug traffickers, particularly the organized crime figures, by taking away the planes, by taking away the boats, by taking away the automobiles and the other property which they use in the course of their criminal activities.

Mr. EARLY. I would hope you would consider taking some of that money and using it for the FBI, state, and local training program that Chairman Smith referred to. Reports show this to be an extremely positive and progressive program. To cut back on this program would not be responsible. Thank you.

Mr. MEESE. We will certainly be maintaining the same level of activity. I think some of the cutbacks that are being made are more of an administrative expense rather than decreasing the level of operation.

#### IMPACT OF THE COMPREHENSIVE CRIME CONTROL ACT

Mr. SMITH. Mr. Rogers?

Mr. ROGERS. Thank you, Mr. Chairman. General Meese, it is good to see you. Congratulations and welcome. I am sorry I missed earlier parts of your testimony. I had a previous commitment.

Can you tell us what impact we are seeing now from the crime bill?

Mr. MEESE. Mr. Rogers, I would say the impact is yet to be seen in concrete terms, because we have had less than six months' experience under it. Some of the provisions of the crime bill, of course, will be phased in over a period of time.

I would say this. It has been of tremendous help to us in some areas already because we can plan ahead, in the area Mr. Early just talked about, the forfeiture of assets, for example. We think this will have tremendous possibilities in the future of sentencing, and the changes in the sentencing law, which won't go into effect yet for a number of years. Nevertheless states which have followed that pattern have shown tremendous results, which is one of the factors that I am convinced has contributed to the decrease in crime nationally that we have registered over the past three years.

So, I think that the potential for this bill is probably greater than almost any piece of criminal justice legislation that has been passed by Congress in the last quarter century.

Mr. ROGERS. I happen to agree with you and hope that we are both correct on that. What long-term budgetary impact will the bill have?

Mr. MEESE. In the 1986 budget we are increasing 837 positions that are attributable to that particular Act, and we have some \$70 million in increased operating expenses attributable to the Act.

In the long run this will be cost effective. We have offset this with some management and administrative savings within the Department, and we think that the cost effectiveness in terms of combating crime, particularly the most serious forms of crime, will more than justify the additional expense that may be attendant to the Comprehensive Crime Control Act.

Mr. ROGERS. Was there anything missing from the crime bill which you would like to pursue this year?

Mr. MEESE. Well, there are some technical amendments. One page did accidentally get dropped out, as you know, authorizing DEA to deputize the local law enforcement agents. There is a small package of technical corrections such as that, which we will be seeking, and I think there won't be any contention over that within the Congress.

Beyond that, though, there are some elements that were adjuncts of the Comprehensive Crime Control Act, which were referred to earlier, and that is the revision of the laws limiting Federal intervention in state criminal proceedings, the modification of the exclusionary rule, the modifications of the Federal Tort Liability Act, and the death penalty. These changes which are companion features of the Comprehensive Crime Control Act of last year, will be advocated by the Department during this session of the Congress.

#### PRIORITY OF DRUG ENFORCEMENT

Mr. ROGERS. We have a heroin population of 492,000, hard drug consumption is still rising albeit slightly, the rising use of heroin in conjunction with other drugs, at least four million, possibly up to 15 million people using cocaine regularly, and the use of cocaine is increasing dramatically. Clearly our antidrug campaigns have not worked, be it governmental or private sector-originated.

In your testimony you referred to several antidrug programs, and I am wondering how you perceive the priorities here. To what extent is drug enforcement a priority with you?

Mr. MEESE. Mr. Rogers, drug enforcement is one of our top priorities in the Justice Department, and as I mentioned a few moments ago, we also feel for the reasons you stated that it needs to be accompanied by a vigorous program also in the education activities directed toward the prevention of drug use.

It is really a two-part equation. It involves both a reduction in the supply of illicit drugs coming into this country, which is a function of enforcement, and it is also a matter of reducing the demand, which is a function essentially of health-oriented and peer group pressure educational programs.

We think the things that are being done, particularly by people such as the First Lady, by athletic stars, by movie and television figures, by rock stars, to create a positive attitude among young people against the use of drugs has started to produce some results.

We have seen in the past two years a decrease in drug use among high school students and in the age group from 15 to 25. The increase in cocaine use that you refer to is largely in the 25 to 35 age population, the people who in the past generation really were the ones who used marijuana in high school, which has been seen to have a definite gateway effect to the use of cocaine at the present time.

We had a most interesting Cabinet meeting yesterday, where the President was reviewing this whole matter, and where we had all of the enforcement agencies represented. We also had the Public Health Service giving us a report on the supply aspects of it, rather on the demand aspects of it, and I think that we are starting to



make some real progress at both ends of the equation at the present time. But as I mentioned earlier to the Chairman and to the other Members of the Committee, we have to keep this effort up, and I think that the budget that you have before you does represent that increase in effort in the drug field.

Mr. ROGERS. Do you think you need any additional authority?

Mr. MEESE. We think that the authority we have at the present time is adequate. A change in the law that would be helpful, particularly in regard to drugs, is the modification of the exclusionary rule.

#### DRUG ENFORCEMENT POLICY BOARD

Mr. ROGERS. Speaking as a former States Attorney, I share that view with you very very strongly. The crime bill passed last year made you the coordinator of a drug policy board for the White House, a compromise measure, but it, in effect, made you the drug czar for antidrug enforcement. What do you see as the mission of that new board, and what will be your role as coordinator of that board?

Mr. MEESE. The mission of the board is to provide government-wide coordination of resources, to monitor the availability of resources for drug enforcement and to advise the President and the Congress on both what we are doing and the progress we are making.

Specifically, I see the need to coordinate our intelligence efforts, to set up the requirement for the utilization of DOD assets, to make requisition of those assets, and then to provide this coordinated effort. We will have the first meeting of the Drug Enforcement Policy Board on the 24th of April, and we will be submitting to the Congress a report later this year, which will both encompass the initial activities of the board, as well as our particular strategy plan for the future. I think it is a combination of making sure we have adequate resources, making sure the intelligence is forthcoming and being channeled to where it can be used by the operating forces, and then coordinating the assets of the various departments.

Mr. ROGERS. Will you be able to help keep some of the turf fighting down?

Mr. MEESE. I think we have gone a long ways already. I have watched this over a number of years from the old days when we had the Federal Bureau of Narcotics, which has gone through several different incarnations, into what is now the Drug Enforcement Administration. I think we probably have a higher level of cooperation among the agencies than we have ever had.

I do know that at the Cabinet level, there is a personal commitment from each of my fellow Cabinet Officers to a coordinated effort, and I think this Drug Enforcement Policy Board will be an organizational means of making sure that that occurs.

The President, himself, as late as yesterday morning personally mentioned this in terms of a coordinated team effort by the Federal agencies, at which point all of the Cabinet members who have a responsibility in this area were present.

Mr. ROGERS. I wish you the best in that. I am, like you, aware of some of the turf fighting that has gone on in the past between the various agencies who have the best interests of the nation at heart, and yet there has been those instances, I think quite numerous, where some of the agencies would fight for the turf, and the cause suffered on account of that, and I wish you the very best in that, and we want to keep an eye out for that as well.

#### DRUG PRODUCTION VS. FOREIGN AID

About 90 percent of the drugs consumed here are produced elsewhere in foreign countries. State estimates that in 1984 that the production of opium poppies increased more than 50 percent since 1980. Worldwide coco production increased 40 percent; cannabis, 20 percent. The Rangel-Gilman-Hawkins amendment, as you know, would cut off economic-military aid to countries which fail to take appropriate efforts to stop the flow of drugs here. I know in the past you have not been too happy about that type of an amendment, and I am wondering if you have had a chance to think that over and if you have changed your mind about it any.

Mr. MEESE. My position on the cutting off of aid has been that it should be used only as a last resort. We are receiving now probably as high a level of cooperation from other governments as we have ever had, largely due to my predecessor, Attorney General Smith's, activities in dealing directly with those countries, going to their capitals, meeting with their leaders, particularly their Ministers of Interior and their Attorneys General or comparable Ministers of Justice, as well as with their Presidents. So I think that sometimes this can be counterproductive, if the government is making a good-faith effort to assist us.

On the other hand, if a government absolutely spurns our request for cooperation in the eradication of drugs or the enforcement of laws against drug traffickers, then I think as a last resort these kinds of laws can be used.

Mr. ROGERS. Have we given thought to that last resort in the case of Burma?

Mr. MEESE. In the case of Burma, which has been one of the major problems in the past, it appears that we are starting to get some cooperation. The State Department's most recent report indicates that we are making some progress.

Mr. ROGERS. I was there a year ago, and frankly at that time I saw very little going on in Burma to help us in the eradication of the poppy in the mountains out there, and I sure hope they have made a revolutionary change in a year.

Mr. MEESE. Mr. Rogers, I suspect that we are not seeing revolutionary changes, but incremental changes, to be quite honest with you. But as recently as the last week or so, we have had reports from the State Department. They feel that progress is being made, but you are correct. Burma is one of the greatest producers of heroin, one of the greatest problems we have internationally with regard to drug producing.

Mr. ROGERS. And, finally, how do we deal with that huge flow of heroin that comes out of Iran and Laos, for example, where obvi-

ously we have very little impact internally, if any? How do we deal with those types of countries?

Mr. MEESE. Obviously, we can't cut off foreign aid because we have none, but what we can do there is try to work on the distribution systems. In this regard, some of the activities that we have had in cooperation with the Government of Italy, for example, which has been a distribution point in the past, have been very worthwhile. That kind of cooperation with other countries through which these narcotics necessarily have to travel before they are distributed, has been great. We are continuing our working groups, to try to stop the narcotics at whatever point in the distribution system we do have some leverage.

Mr. ROGERS. Is it still true that Iran is the world's largest supplier now of heroin?

Mr. MEESE. Iran is one of the major suppliers of opium over half of which is consumed in Iran. The remaining opium goes into Turkey where it is used to produce heroin. As you mentioned a while ago, Burma also vies for that record. Although there are no absolutely accurate statistics, our estimates are that Iran still is a major contributor to the illicit narcotics market supply in the world.

Mr. ROGERS. Are there any contacts that we have that you can speak of in that context today with either the Iranian Government or any of her neighbors that could do more than is presently being done to help us keep Iran from furnishing us the major portion of the heroin that addicts our people in this country?

Mr. MEESE. Again, I don't know of any direct things we can do. I do feel we are doing some indirect things in terms of countries through which the narcotics flow, but as far as direct pressures on Iran, I don't know of any way we could do that beyond what we are doing generally as a matter of our foreign policy.

Mr. ROGERS. I wish you well in your efforts. Thank you very much.

Mr. MEESE. Thank you.

#### GROWTH OF JUSTICE BUDGET

Mr. Conte?

Mr. CONTE. Thank you, Mr. Chairman. I want to join other members in welcoming Mr. Meese in his first appearance before our committee. In the short time that I have been here, bouncing around between this Subcommittee and others, I must say, Mr. Meese, you have done a good job here today in handling yourself.

Mr. MEESE. Thank you.

Mr. CONTE. As you noted in your statement, the Department of Justice budget is up 62 percent from the level when this administration took office, and with all the noise about the growth in the defense budget, your growth has almost gone unnoticed.

Congress has supported you in this budget, I should say supported the Justice Department. In fact, at times this Committee has added more money than was requested, especially for Juvenile Justice. My question is, do you think we are really getting our money's worth, and is criminal activity really on the downward side, or are we just locking up more people in jail? Are we really getting a

handle on illegal drug activities? With all the things that we are doing, there are still a lot of narcotics getting into this country.

Mr. MEESE. Mr. Conte, we hope that the programs of the Department are cost effective and that we are justifying the amount of money which this Committee has provided for the Department. We feel that we are.

For example, the Committee was very helpful in providing the funding for the organized crime drug enforcement task forces. As a result of these task forces, we have indicted over 4,000 major organized crime and drug trafficking figures, and have convicted so far, and the trials are still continuing, some 1,900 major crime figures. We feel, as I mentioned earlier in response to the drug trafficking situation, it is still a major problem, no question about that, but we are making some strides, particularly in terms of the record seizures of drugs, the record numbers of people being apprehended, the numbers of people convicted, and the tremendous increase in the amount of money that has been recovered from the drug traffickers themselves, the proceeds of their illegal activities, as well as the property that has been forfeited.

So I would say that, while it is a substantial amount of money and a substantial increase, the return on our investment is good in this country. Dave Stockman tells me that in regard to other departments of the government, we are just a rounding error, but still we want to make sure that this money is properly expended, and we feel that it is.

I think one of the things that Mr. Wallace and his people have been able to do in this last budget is to reduce materially the administrative overhead expenses of the Department so that whatever increases we net are being plowed into increasing our operational forces against organized crime, drug traffickers and other forms of criminal activity.

Finally, in answer to your question, I do feel we are making progress as a nation. The year 1984 will have been the third year in a row in which we have had an unprecedented decrease in crime nationally. In 1982, crime decreased three percent. In 1983, it decreased seven percent, and we are very hopeful, based on preliminary statistics, that a similar decrease will be shown in 1984. So I think we are on the right track overall.

We still have a lot to do, and that is why we appreciate the support of this Committee in the activities of the Department.

Mr. CONTE. Thank you, Attorney General Meese. I have some further questions, Mr. Chairman. I will submit them for the record.

Mr. SMITH. Thank you very much, Mr. Attorney General.

Mr. MEESE. Thank you, Mr. Chairman and Members of the Committee.

[Questions submitted for the record follow:]

QUESTIONS SUBMITTED BY CONGRESSMAN EARLY

DEPARTMENT OF JUSTICE

Attorney General

Juvenile Justice

QUESTION:

How is the State and Local Assistance program different from the old LEAA (Law Enforcement Assistance Administration) which was considered to be wasteful and ineffective? What safeguards has the Department taken to prevent the problems that plagued the LEAA from recurring?

ANSWER:

The State and Local Assistance program is different from LEAA in several significant ways. Four of these are: (1) Grants require a 50% cash match where LEAA only required 10%; (2) States and localities must pay all administrative costs where LEAA paid the majority of the administrative costs; (3) The new State and Local Assistance program targets limited block funds on 18 statutorily specified purposes. Moreover, funds may only be used for programs that have a high probability of improving the criminal justice system, with emphasis on violent crime and serious offenders; and (4) Grant funds are not to be used for: the purchase of equipment or hardware; construction or renovation; or the payment of personnel costs, unless these costs are an incidental and necessary part of an approved program. These provisions are contained in the Act and the guidelines and OJP will monitor grantees to insure that they are followed.

QUESTION:

One of the major rationales for instituting the State and Local Assistance Program under the Justice Assistance Act was that state and local criminal justice agencies handle 95% of the the total criminal justice workload and therefore need this additional assistance at the state and local level. Wouldn't the same rationale apply for the RISS and Juvenile Justice programs?

ANSWER:

The programs authorized by the Justice Assistance Act address the total criminal justice function including juvenile justice. States will use their block grant funds to address their most pressing criminal justice problems which may be of a juvenile nature.

As to RISS, the Department believes there are more urgent and productive areas in which to spend \$10,000,000.

Immigration Reform BillQUESTION:

In your opinion, what are the chances of having a new Immigration Bill become law this year? Does the budget request for the INS reflect this possibility?

ANSWER:

The Administration continues its strong support for immigration reform legislation and commits its full efforts to work with Congress in a bipartisan effort to achieve enactment of such needed legislation.

Because the exact provisions of final legislation are not yet known, the 1986 budget request for INS contains no funding for an Immigration Reform Bill.

QUESTION:

At the bitter end of negotiations between conferees on the Immigration Reform Bill last year, it was the Administration's \$1 billion dollar cap on annual federal reimbursements to the states (when modest cost estimates were \$12 billion) that prevented the bill from getting to the Floor.

What suggestions do you have about handling the "mammoth" costs associated with the implementation of an Immigration Reform Bill and who should pay?

ANSWER:

While it is true that the Federal pay cap was the final issue that prevented the Immigration Reform Bill from reaching a vote last year, the Administration does not agree that the cap was solely responsible. There were other issues raised by various interest groups and a time factor that primarily contributed to the demise of the bill.

The INS costs of implementing the Immigration Reform Bill in 1985 were estimated at \$271.3 million, which is about 2.3% of the \$12 billion estimate. The bulk of the \$12 billion estimate is attributable to state-administered entitlement programs such as AFDC, Medicare, Food Stamps, etc. We do not agree on the accuracy of the \$12 billion estimate.

The major approach to reducing such "mammoth" costs would be to maintain a two-tiered legalization program similar to the 1977/1980 approach used by the Senate bill in the last Congress with limitations on the public assistance available to the newly legalized citizens. This would reflect the fact that those legalized are required to be self-supporting, long-term members of their communities.

DEA Agent CamarenaQUESTION:

We are all concerned about the tragic and violent death of DEA Agent Camarena? What progress has DEA made into this investigation so far?

ANSWER:

Progress is being made in the investigation of Agent Camarena's abduction and murder. In Guadalajara, Mexico, one of the vehicles believed used has been located. On April 4, 1985, Rafael Caro-Quintero was arrested by Costa Rican authorities based on information supplied by DEA. He is one of the primary suspects in this matter.

Recently another major suspect in the investigation, Ernesto Fonseca Carrillo was arrested. Nearly 40 defendants in total have already been charged in connection with the Camarena murder or related events. In addition, a second car and a house believed to be used in the abduction and murder have been located and seized.

QUESTION:

Have any additional DEA agents been dispatched to Mexico?

ANSWER:

Yes, within hours of the kidnapping of special agent Camarena, the number of special agents in Mexico was more than doubled, utilizing temporary duty personnel. A thorough study of the permanent staff is being conducted looking to an increase in the near future.

QUESTION:

I assume that the FBI is also helping out with this case?

ANSWER:

The Federal Bureau of Investigation was very helpful during the investigation of Camarena case and provided extensive equipment, such as extortion kits, manpower, such as crime scene personnel, bilingual behavioral scientists, and polygraphers and a contract hypnotist.

QUESTION:

What efforts has DEA made to protect domestic DEA facilities, especially in Florida, that are currently "under seige" by drug traffickers and organized crime?

ANSWER:

Physical security has been upgraded for all offices, including but not limited to, security guard service, security alterations, security protections such as intrusion detection and closed-circuit television systems, mail/package x-ray scanning devices, vehicle armoring, secure parking facilities, and emergency communications systems.

QUESTION:

The fact that the Mexican authorities were involved in the Camarena case is frightening. No matter how effective the DEA is, what can we do about this situation and similar situations throughout Central and South America where law enforcement agents are making \$200 to \$300 a month and are therefore so easily bribed?

ANSWER:

This is, indeed, a difficult problem. We are, however, exploring steps which might be taken to assist foreign law enforcement efforts directed at drug enforcement.



## QUESTIONS SUBMITTED BY CONGRESSMAN BOLAND

## DEPARTMENT OF JUSTICE

ATTORNEY GENERALState and Local AssistanceQUESTION:

What are your expectations for the state and local assistance programs authorized by the Comprehensive Crime Control Act of 1984?

ANSWER:

Although the primary responsibility for law enforcement rests at the state and local levels of government, the state and local assistance programs authorized by the Act can provide a catalyst for effective action on a narrow range of high priority criminal justice objectives. By focusing Federal resources on a limited number of activities which offer high promise of increasing the effectiveness of state and local agencies, I believe the program will demonstrate that significant improvements in the performance of criminal justice agencies can be achieved when resources are carefully targetted. We expect to produce measurable results from the funds allocated under the program and we will submit regular reports on these results to the Congress.

QUESTION:

What responsibility do you believe the Federal Government has in providing the financial wherewithal for local law enforcement officials to upgrade their crime-fighting techniques and equipment?

ANSWER:

The Federal Government is often able to identify methods that make law enforcement more effective and to foster change and improvement through national leadership and assistance. Under the programs authorized by the Justice Assistance Act of 1984, the Department can provide funds and technical assistance to promote the implementation of projects which have demonstrated their effectiveness in addressing specific aspects of criminal justice. While this is no substitute for state and local effort, it can significantly augment the ability of individual local jurisdictions to prevent crime and to apprehend and successfully prosecute serious criminal offenders.

Federal Prison SystemQUESTION:

Your statement notes the continued increase in the rate of overcrowding in the Federal Prison System. Various provisions of the Comprehensive Crime Control Act are likely to contribute to the maintenance of that trend.

What is your assessment of the existing security system in the Federal prisons? Are we devoting enough budgetary resources to security in

light of the overcrowding, or should we be acting faster to bring this problem under control, either through a more rapid expansion of prison facilities, or a greater use of cooperative incarceration agreements with state and local authorities?

ANSWER:

The existing security system in the Federal Bureau of Prisons is effective in terms of the security classifications assigned to facilities and inmates. Resources, particularly the number of correctional officers, have not been adequate to meet the staffing standards established for institutions operating at rated capacity. Obviously, the current level of overcrowding adds to the security risks posed by understaffing. The 200 additional correctional officer positions appropriated by the Congress for the current fiscal year provided significant relief in this area. Because the Congress also approved positions for the opening of facilities in Rochester, Minnesota, Loretto, Pennsylvania, Duluth, Minnesota, and other adjustments, the number of correctional officers grew from 4,359 to 4,823, an increase of 464.

Regarding the expansion of capacity, the Federal Bureau of Prisons, through a combination of acquisition and conversion of surplus facilities to prison use, expansion of capacity at existing institutions and new construction, will have increased the capacity of the Federal Prison System by 5,900 beds. With future budget requests, the Bureau's objective is to keep pace with the continuing increase in the inmate population and to substantially reduce overcrowding. The Bureau will continue to make use of cooperative incarceration agreements with state and local correctional agencies wherever possible, however, prison overcrowding in most states is as severe, and frequently, more so than in the Federal Prison System.

Antitrust

QUESTION:

Last year this Committee indicated its strong belief that the Antitrust Division should be vigorous in its prosecution of offenders of the per se rule against resale price maintenance.

- What steps have been taken in the Department to address the Committee's concerns?
- What is your view of the resale price maintenance issue?

ANSWER:

The Justice Department treats resale price maintenance as illegal per se, in accordance with existing Supreme Court holdings. Former Assistant Attorney General J. Paul McGrath stated on several occasions the Department's commitment to enforce existing legal precedents regarding resale price maintenance unless and until the Supreme Court changes its interpretation of the Sherman Act as it relates to that practice. Indeed, on more than one occasion he instructed management officials of both the Antitrust Division's Washington sections and its field offices to direct their staff attorneys that potential resale

price maintenance violations should be analyzed as per se offenses in recommending whether an enforcement action should be brought.

During calendar year 1984 the Antitrust Division received and considered a total of 18 complaints involving possible resale price maintenance. Although the Division filed no cases during calendar year 1984 alleging resale price maintenance, it has, as of April 1, 1985, authorized five formal investigations into possible occurrences of this practice. Because these matters are the subject of pending investigations, the Department cannot publicly comment on them. In addition, the Antitrust Division currently is pursuing one other complaint that may involve resale price maintenance.

## QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

## DEPARTMENT OF JUSTICE

Attorney GeneralQUESTION:

Do you intend to propose any initiatives of your own with respect to crime control or other area of interest to you? What do you consider the most pressing problems facing your Department and what steps will you take to solve them?

ANSWER:

I intend to continue the initiatives advanced by Attorney General Smith and to build on the progress the Department has made over the past four years. I will push those parts of the Comprehensive Crime Bill not enacted by Congress last year, reforming the laws governing Federal interference in state criminal proceedings, the exclusionary rule, capital punishment, and Federal tort claims. We will be working to implement the important reforms enacted in the Comprehensive Crime Control Act of 1984. With the authority that has been given to me as head of the National Drug Enforcement Policy Board, I will continue to enhance our battle against narcotics traffic. We will proceed with legislation now pending on the issue of money laundering, we will push reforms in the area of fraud and economic crimes, and we will advance immigration legislation.

Over the next four years, we will be working to protect and restore the constitutional values of federalism and separation of powers. We will continue to enhance cooperation among Federal, state, and local law enforcement authorities. I am also glad for the opportunity to coordinate with the private sector in the National Partnership on Child Safety that the President has established to follow through on the fine work done by the Task Forces on Victims of Crime and on Family Violence, and to announce the formation of the Commission on Pornography. If you have more specific questions as we proceed with initiatives in these areas, I would be happy to discuss them with you.

In closing, I should mention a less glamorous but equally important task before me. As a professional trial lawyer and prosecutor, I appreciate the challenges and burdens before the average lawyer in the Department of Justice. With my leadership here, I hope to foster professional excellence and to instill a team enthusiasm that will attract the best lawyers to the Department and that will make them proud of their work here.

## QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

## DEPARTMENT OF JUSTICE

Attorney GeneralQUESTION:

I noted that the Justice Department refused to accept OMB's proposed cut of \$46 million to Justice's FY 1986 budget. From what program(s) did OMB suggest that Justice absorb this cut?

ANSWER:

The Department's \$46 million reduction was to be absorbed in the following five categories:

	<u>(In Millions of Dollars)</u>
1) Motor vehicles.....	-\$13
2) Travel and transportation of personnel and things for personnel.....	-22
3) Public Affairs, Public Relations and Advertising Activities.....	-3
4) Publishing, printing, reproduction and audiovisual activities.....	-4
5) Consulting services.....	-4
TOTAL.....	-46

QUESTION:

Have you filled the position of director of the Civil Rights Division within the Department? What criteria will be or were used in selecting this director?

ANSWER:

The position of Assistant Attorney General for the Civil Rights Division has not yet been filled. As you know, the nomination of Assistant Attorney General Wm. Bradford Reynolds to be Associate Attorney General is currently pending before the Senate Committee on the Judiciary. In selecting a nominee for the position as head of the Civil Rights Division we will be looking for an attorney with talent, integrity, and a sense of responsibility; and above all one who is opposed to all forms of racial discrimination.

## QUESTIONS SUBMITTED BY CONGRESSMAN CONTE

## DEPARTMENT OF JUSTICE

Attorney GeneralQUESTION:

Mr. Meese, you responded earlier to Mr. O'Brien and Mr. Early that while no funds are being requested for Juvenile Justice grants, such programs could share part of the \$67 million requested for state and local assistance. Yet on page 7 of your statement you said this state and local program would place "special emphasis on violent crime and serious offenders". That sounds somewhat contradictory to me, and it is certain that Juvenile Justice programs will never get the current level of \$70 million under this new program of 80% formula -- 20% discretionary grants totalling \$67 million.

Why are you proposing this decreased attention to juvenile justice efforts?

ANSWER:

The decision not to request continued Federal funding for the Juvenile Justice program was made by the Department prior to my arrival as Attorney General. As I have previously stated, I am a strong supporter of juvenile justice. However, I am also a strong supporter of the President's efforts to reduce the Federal deficit. As the Attorney General, I must review all the demands on available funding and allocate funding to the most urgent needs. After reviewing the allocation of funding contained in the 1986 Departmental budget request, and taking into consideration the Department's numerous responsibilities, I concur in the decision of the former Attorney General.

This Administration has consistently sought to cut funding for juvenile justice programs in light of progress made toward deinstitutionalization and separation of juveniles from adult offenders and the commitment of the states to continue these programs. Given the budget deficit and other law enforcement needs, we do not believe the current level of funding for juvenile programs is justifiable. If our approach were followed, funds would be available under the general justice assistance program for the most important of juvenile programs. We seriously question the wisdom of grant programs directed at specific aspects of the crime problem as this leads to fragmentation of effort and suggests that we should have separate programs for crimes against the elderly, rural crime, metropolitan crime and so forth. Effectiveness and efficiency are enhanced by a comprehensive justice assistance effort which can take account of the entire range of government responses to crime.

THURSDAY, MARCH 28, 1985.

**GENERAL ADMINISTRATION**

**WITNESSES**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR  
ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

**STEPHEN R. COLGATE, ASSISTANT DIRECTOR, BUDGET STAFF**

**DAVID O. MILHOLLAN, DIRECTOR, EXECUTIVE OFFICE OF IMMIGRATION  
REVIEW**

**WILLIAM R. ROBIE, CHIEF IMMIGRATION JUDGE, EXECUTIVE OFFICE  
FOR IMMIGRATION REVIEW**

**BUDGET REQUEST**

Mr. DWYER. The first appropriation item that we shall consider this afternoon is entitled General Administration, salaries and expenses. The request for fiscal year 1986 is \$65,243,000. This amounts represents a reduction of \$7,907,000 below the appropriations for fiscal year 1985. We shall also consider the fiscal year 1985 supplemental request to transfer \$3,890,000 from the General Administration appropriation to the United States Attorneys and Marshals.

We shall insert at this point in the record the justification materials submitted in support of the request.

[The justifications follow:]

Department of Justice  
General Administration  
Estimates for Fiscal Year 1986  
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General Administration

Salaries and expenses

Summary Statement

Fiscal Year 1986

The General Administration appropriation is requesting for 1986 a total of \$63,243,000, 995 permanent positions, and 1,073 workyears. This request represents a decrease from the 1985 appropriation anticipated of \$4,919,000 and an increase of 13 workyears.

The primary mission of the General Administration is to support the Attorney General and the senior policy level officials of the Department in the development of policy objectives and the management of the Department. In addition, selective administrative support is provided to the legal divisions and the smaller offices and boards within the Department. This appropriation also supports two organizations responsible for the administrative review and appeal of decisions relating to individuals: Executive Office of Immigration Review and the Pardon Attorney.

The mission of the General Administration appropriation is accomplished through the programs contained in four budget activities: Program Direction and Policy Coordination, Administrative Review and Appeals, State and Local Drug Grants, and Organized Crime Drug Enforcement. Included in the Program Direction and Policy Coordination activity are the following programs: Department Leadership, Executive Support, Intelligence Policy and Planning and the Justice Management Division. The major initiatives and resource requests for these activities and programs are summarized below.

Program Direction and Policy Coordination

This budget activity includes resources for the primary missions of the Offices supported by the following programs: Department Leadership, Executive Support, Intelligence Policy and Planning, and the Justice Management Division. These programs consist of the following:

The Department Leadership program consists of the Offices of the Attorney General, the Deputy Attorney General and the Associate Attorney General. These Offices are responsible for developing appropriate policies regarding the administration of justice in the United States; effectively representing the United States in justice-related matters; and providing advice and opinions on legal matters to the President, members of the Congress and heads of Executive departments and agencies.

The Executive Support program consists of the Offices of Legal Policy, Public Affairs and Legislative and Intergovernmental Affairs. The primary missions of this program are to initiate, develop and coordinate major policy initiatives of high priority to the Department and to the Administration in the areas of civil and criminal justice; to ensure that the Department operates most effectively with the Congress and the Office of Management and Budget (OMB) to advance its legislative goals; to inform the Departmental personnel, the media and the public of Department activities expeditiously and accurately; to counsel the Attorney General and other Department officials in their dealings with the media; and to coordinate and facilitate the flow of information applicable to government intergovernmental relations.

The Intelligence Policy and Planning program consists of the Office of Intelligence Policy and Review and the Office of Professional Responsibility. This program is responsible for the coordination, development and implementation of Departmental policy on intelligence and national security matters. This program also is responsible for strengthening the integrity of and maintaining public confidence in the Department of Justice, and in fostering and further developing among all Department employees a commitment to professional responsibility.

The Justice Management Division (JMD) is responsible for ensuring that the management initiatives of the President, the Attorney General, and the Congress are implemented soundly and that administrative support services are delivered efficiently and effectively. The Justice Management Division program consists of the Immediate Office of the Assistant Attorney General for Administration, the Offices of the Controller, Personnel and Administration, and Information Technology. Also included in JMD is the Departmental Audit Staff. The budget request for the Justice Management Division provides for a program reduction of \$1,678,000 which represents an effort to reduce administrative expenses throughout the government.

#### Administrative Review and Appeals

This program includes the Office of the Pardon Attorney and the Executive Office for Immigration Review. The Office of the Pardon Attorney is the focal point for the receipt, investigation and consideration of petitions for all forms of Executive clemency and serves as the principal liaison with the general public in clemency matters. The major staffs of the Executive Office for Immigration Review are: Judicial Review where immigration judges hold hearing to determine the status of an alien; and the Board of Immigration Appeals which hears appeals from certain decisions of the Immigration and Naturalization Service and Immigration judges.

#### State and Local Drug Grants

This activity, commonly referred to as the Regional Information Sharing Systems, was established so that State and local governments could exchange information to assist law enforcement efforts. No funds are requested to continue this activity in 1986, since the Administration does not believe that this program is consistent with the larger goals of making major reductions in Federal spending and returning to State and local governments their proper authorities to set priorities for programs that primarily serve State and local objectives.

#### Organized Crime Drug Enforcement

The Organized Crime Drug Enforcement program is composed of two projects, the Governors' Project and the Annual Report. The budget request of \$207,000 will be available for funding communication and travel expenses for the Governors' Project and costs associated with submitting the annual report.

General AdministrationSalaries and expensesProposed Authorization Language

The following authorization language is being requested for General Administration:

Annual Authorization Proposal

For General Administration \$63,243,000:

Permanent Authorization Proposal

The Attorney General or his designee is authorized to make payments from the Department of Justice Appropriation for:

- (1) the hire of passenger motor vehicles;
- (2) miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration;

General AdministrationSalaries and expensesJustification of Proposed Changes in Appropriation Language

The 1986 budget estimates include changes in appropriation language listed below. New language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses

For expenses necessary for the administration of the Department of Justice, [\$71,150,000].

\$63,243,000

(8 U.S.C. 1103 (A); 28 U.S.C. 501, 503, 504, 507-526, 1929; Department of Justice and Related Agencies Appropriation Act, 1985; additional authorizing legislation to be proposed.)

Explanation of changes

No substantive changes proposed.

General AdministrationSalaries and expensesCrosswalk of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request		Congressional Appropriation Actions on 1985 Request		Reprogramming		1985 Supplementals Requested Program		1985 Proposed Revisions		1985 Appropriation Anticipated	
	Pos.	Wt.	Pos.	Wt.	Pos.	Wt.	Pos.	Wt.	Pos.	Wt.	Pos.	Wt.
1. Program Direction and Policy												
Coordination:												
a. Department Leadership.....	56	58	...	...	...	...	...	...	...	...	56	58
b. Executive Support.....	71	78	...	...	...	...	...	...	...	...	71	78
c. Intelligence Policy and Planning	24	24	-2	-2	...	...	...	...	...	...	22	22
d. Justice Management Division.....	571	600	-3	-8	...	...	...	...	...	...	580	585
Subtotal.....	722	760	-3	-10	...	...	...	...	...	...	729	753
2. Administration Review and Appeals...	266	307	...	...	...	...	...	...	...	...	266	307
3. Federal Justice Research Program....	...	...	...	...	...	...	...	...	...	...	...	...
4. State and Local Drug Grants.....	...	...	...	...	...	...	...	...	...	...	...	...
5. Organized Crime Drug Enforcement....	...	...	...	...	...	...	...	...	...	...	...	...
Total.....	988	1,067	-5	-10	...	...	...	...	...	...	995	1,060

Explanation of Analysis of Changes from 1985 Appropriation RequestCongressional Appropriation Actions

The Congress reduced the program Direction and Policy Coordination and the Administrative Review and Appeals by 5 positions and \$6,206,000. This reduction eliminated increased funding requested for Automated Information Systems and Standard Level User Charges. In addition, a reduction of \$128,000 was included to eliminate the Federal Justice Research Program. Congress also provided funding of \$9,900,000 to continue the State and Local Drug Grant Program.

Reprogramming

The reprogramming of budget authority reflects a transfer from the State and Local Drug Grants Program to JMD to support the increased workload resulting from the Comprehensive Crime Control Act of 1984. This reprogramming will be of a permanent nature and will carry into 1986.

Supplementals Requested

1. The pay request provides \$1,068,000 to meet increased pay requirements.
2. The supplemental request for 12 positions will support JMD's increased workload resulting from the Comprehensive Crime Control Act funded in the reprogramming shown above.
3. The supplemental transfer of \$3,890,000 will provide the U.S. Attorneys and the U.S. Marshalls with resources to support the 85 new federal judgeships provided in the Bankruptcy Amendments and Federal Judgeship Act of 1984.

Proposed Reclamation

In accordance with section 2901 of the Deficit Reduction Act, \$166,000 is proposed for reductions in the travel, transportation, printing, and consulting services area.

General Administration

Salaries and expenses

Summary of Requirements  
(dollars in thousands)

	Perm. Pos.	Work- years	Amount
<u>Adjustments to base</u>	983	1,057	\$71,150
1985 as enacted.....	...	...	1,068
Supplementals requested:	...	...	-3,890
• 1985 Pay Supplemental requested.....	12	3	...
• 1985 Supplemental Transfer requested.....	...	...	-166
Additional positions for the Comprehensive Crime Control Act.....	995	1,060	\$8,182
Proposed Reversion.....	...	...	...
1985 appropriation anticipated.....	...	...	-1,584
Savings resulting from management initiatives.....	...	13	3,965
Uncontrollable increases.....	...	...	-22
Decreases.....	995	1,073	\$70,521
1986 base.....	...	...	...

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	1984 Actual		1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amt.	Perm. Pos.	WY Amt.	Perm. Pos.	WY Amt.	Perm. Pos.	WY Amt.	Perm. Pos.	WY Amount
<u>Estimates by budget activity</u>										
1. Program direction and policy coordination:										
• a. Departmental Leadership.....	56	70 \$4,418	56	58 \$4,688	56	58 \$4,706	56	58 \$4,706	...	...
• b. Executive Support.....	71	93 4,849	71	78 4,830	71	78 4,825	71	78 4,825	...	...
• c. Intelligence Policy and Planning.....	22	23 1,464	22	22 1,424	22	22 1,425	22	22 1,425	...	...
• d. Justice Management Division.....	547	581 32,062	580	595 36,726	580	604 38,914	580	604 37,036	...	\$1,878
Subtotal.....	696	767 42,793	729	753 47,668	729	762 49,870	729	762 47,992	...	-1,878
2. Administrative Review & Appeals..	247	231 11,525	266	307 14,894	266	311 15,044	266	311 15,044	...	...
3. Federal Justice Research Program.	...	...	...	...	...	...	...	...	...	...
4. State and Local Drug Grants.....	...	...	...	...	...	...	...	...	...	-5,400
5. Organized Crime Drug Enforcement.	...	...	...	...	...	...	...	...	...	...
Total.....	943	998 64,576	995	1,060 68,162	995	1,073 70,521	995	1,073 63,243	...	-7,278



## General Administration

## Salaries and expenses

Summary of Resources by Program  
(Dollars in thousands)

	1984 as Enacted			1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount
<b>Estimates by Program</b>																		
Program direction and policy coordination:																		
Department Leadership.....	56	58	\$4,404	56	70	\$4,418	56	58	\$4,688	56	58	\$4,706	56	58	\$4,706	...	...	...
Executive Support.....	71	78	4,551	71	93	4,849	71	78	4,830	71	78	4,825	71	78	4,825	...	...	...
Intelligence Policy and Planning.....	22	22	1,319	22	23	1,461	22	22	1,424	22	22	1,425	22	22	1,425	...	...	...
Justice Management Division.....	547	547	22,497	547	581	22,062	580	592	25,726	580	604	28,914	580	604	37,036	...	...	-11,878
Subtotal.....	636	729	32,771	636	767	42,793	729	753	47,668	729	762	49,970	729	762	47,992	...	...	-1,878
Administrative Review and Appeals...	247	292	11,698	247	231	11,525	266	307	14,894	266	311	15,044	266	311	15,044	...	...	...
Federal Justice Research Program...	...	...	16	...	...	358	...	...	...	...	...	...	...	...	...	...	...	...
State and Local Drug Grants.....	...	...	9,900	...	...	9,900	...	...	5,400	...	...	5,400	...	...	...	...	...	-5,400
Organized Crime Drug Enforcement.....	...	...	...	...	...	...	...	...	200	...	...	207	...	...	207	...	...	...
Reward for Information.....	...	...	100	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
<b>Total.....</b>	943	1,021	64,485	943	998	64,576	995	1,060	68,162	995	1,073	70,521	995	1,073	63,243	...	...	-7,278
Reimbursable Workyears.....	...	...	33	...	33	...	...	33	...	...	33	...	...	33	...	...	...	...
<b>Total FTE Ceiling.....</b>	...	...	1,054	...	1,031	...	...	1,093	...	...	1,106	...	...	1,106	...	...	...	...
<b>Other Workyears:</b>																		
Holiday.....	...	...	2	...	2	...	...	2	...	...	2	...	...	2	...	...	...	...
Overtime.....	...	...	16	...	21	...	...	21	...	...	21	...	...	21	...	...	...	...
<b>Total compensable workyears.....</b>	...	...	1,072	...	1,054	...	...	1,116	...	...	1,129	...	...	1,129	...	...	...	...

General Administration

Status of Congressionally Requested  
Studies, Reports, and Evaluations

The Justice Management Division has responsibility for the following Congressionally requested studies:

- A feasibility study of whether the Kansas and Minnesota State prisons' projects to provide private industry job experience for inmates could be replicated by the Federal Prison System is being conducted. Publication is expected in 1985.
- A study of administratively uncontrollable overtime will be conducted in 1985. An interim report will be completed by the Congressional deadline and a final report will be completed by the end of the fiscal year.

General AdministrationSalaries and expensesPriority Ranking

<u>Base Programs</u>	
<u>Program</u>	<u>Ranking</u>
Department Leadership	1
Intelligence Policy and Review	2
Justice Management Division	3
Executive Support	4
Administrative Review and Appeals	5
Organized Crime Drug Enforcement	6

General Administration  
Salaries and expenses  
Summary of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985		1986 Total
		Authorized	Program Supplemental	
Attorneys (905).....	161	170	...	170
Paralegal Specialist (950).....	3	3	...	3
Gen. Admin./Clerical (300-399).....	460	486	...	486
Business & Industry (1100-1199).....	32	32	...	32
Social Science (400-499).....	1	1	...	1
Personnel Management (200-299).....	64	64	...	64
Accounting/Budget (500-599).....	128	133	12	145
Library (1400-1499).....	33	33	...	33
Supply Group (2000-2099).....	11	11	...	11
Information and Arts (1000-1099).....	1	1	...	1
Miscellaneous (001-099).....	49	49	...	49
Total.....	943	983	12	995
Washington.....	727	754	12	766
U.S. Field.....	216	229	...	229
Total.....	943	983	12	995

## General Administration

## Salaries and expenses

Summary of Adjustments to Base  
(Dollars in thousands)

	Perm. Pos.	Work- Years	Amount
1985 as enacted.....	983	1,057	\$71,150
Supplementals requested:			Amount
Pay increase supplemental requested:			\$1,388
Increase pay costs.....			-320
Absorption.....			1,068
Net pay supplemental.....	12	3	...
Additional positions for the Comprehensive Crime Control Act.....	...	...	-3,590
Supplemental Transfer requested.....	...	...	-166
Proposed rescission.....	...	...	...
1985 appropriation anticipated.....	995	1,060	68,162
Adjustments to base:			-1,584
Savings resulting from management initiatives.....	...	...	...
Uncontrollable increases:			521
Annualization of 1985 pay increases.....	...	...	102
Restoration of reduction for change in hourly rate.....	...	...	117
Annualization of positions approved in 1985.....	...	...	1,890
Annualization of positions requested in 1985 supplemental.....	...	...	381
Within-grade increases.....	...	...	99
Health benefits costs.....	...	...	55
Department Telecommunications.....	...	...	89
Federal Telecommunications System (FTS).....	...	...	1
Automated legal research and litigation support service.....	...	...	15
GSA recurring reimbursable services.....	...	...	4
GPO printing costs.....	...	...	691
General pricing level adjustment.....	...	...	3,965
Total, uncontrollable increases.....	...	...	...
Increases:			-22
Rate decrease for full-field investigations.....	...	...	-22
Total, decreases.....	...	...	...
1986 Base.....	995	1,073	70,521

General Administration  
Salaries and Expenses  
Justification of Adjustments to Base  
(Dollars in thousands)

	<u>Perm Pos.</u>	<u>Work- years</u>	<u>Amount</u>
<u>Savings resulting from management initiatives: Five Percent Pay Reduction</u> .....	...	...	-\$1,584
Savings of \$1,584,000 will be realized as a result of the proposed five percent pay reduction in salaries for civilian federal employees.			

Uncontrollable Increases:

1. Annualization of 1985 pay increase.....	...	...	521
--	-----	-----	-----

This provides for the annualization of the January 6, 1985 pay increase contained in Executive Order 12496, dated December 28, 1984. There are 261 compensable days in 1985 and 70 paid days (October 1, 1984 through January 5, 1985) that were not included in the day rate amount of \$1,068,000. Additionally, \$124,000 of the request was absorbed. The calculation of the amount required for annualization is:

70/261 x annual amount of pay rates.....	\$397,000
1985 absorption of pay.....	124,000
Total annualization.....	521,000

2. Restoration of reduction for change in hourly rate.....	...	...	102
--	-----	-----	-----

Section 310(b)(1) of the Omnibus Reconciliation Act of 1982 required that for 1984 and 1985 pay be computed on the basis of 2,087 workhours. These funds were withdrawn from 1984 budget. For 1986 the basis for computing pay reverts to 2,080 workhours and restoration of the \$102,000 reduced in 1984 is required to fund the change in the hourly rate.

3. Annualization of additional positions approved in 1985.....	...	4	117
--	-----	---	-----

This provides for the annualization of 19 additional positions approved in 1985.

	Per- Year	Work- Years	Amount
<p>Annual salary rate of 31 approved positions..... \$600,000</p> <p>Less lapse (17.5%)..... \$105,000</p> <p>Net compensation..... 495,000</p> <p>Associated employee benefits..... 12,000</p> <p>Total costs subject to annualization..... 517,000</p>			
<p>4. Annualization of additional positions requested in 1985 supplemental..... 9 \$1,890</p> <p>This provides for the annualization of 12 additional positions requested in 1985.</p>			
<p>Annual salary rate of 12 approved positions..... \$328,000</p> <p>Less lapse (17.5%)..... \$57,400</p> <p>Net compensation..... 270,600</p> <p>Associated employee benefits..... 8,000</p> <p>Systems Development/Original Firms, Assista Fund..... 328,000</p> <p>Total costs subject to annualization..... 416,000</p>			
<p>5. Within-grade increase..... 381</p>			

This request provides for an increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$34,398,000 and benefits \$3,671,000 = \$38,069,000).

Item No.	Work- years	Amount
6. Health Benefits Costs.....	...	\$99
<p>The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective for the first pay period after January 1, 1983, actual contribution to health insurance increased approximately 10 percent due to both carrier rate increases and charges in enrollment plans. The requested increase of \$99,000 provides funds for increased costs from pay periods No. 2, \$27,156,000 to pay period No. 3, \$30,951,000 projected for 26 pay periods.</p>		
7. Department Telecommunications.....	...	55
<p>Expenses for equipment, installation and commercial tolls (to include message units and directory assistance) have increased dramatically since April 1984. An increase was not requested for 1985 due to the uncertainties surrounding the industry restructuring and deregulation at that time. Annualization of the current level of billing indicates that 1985 expenses will be approximately eighteen percent higher than 1984 estimated expenses, requiring an uncontrollable increase of \$55,000.</p>		
8. Federal Telecommunications System (FIS) rate increase.....	...	89
<p>The FIS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1985, the uncontrollable increase will be \$89,000 over the 1984 base of \$200,000.</p>		
9. Automated Legal Research and Litigation Support Services.....	...	1
<p>Centralized JURIS, litigation support, and case management services are available for all departmental organizations through the Departmental Working Capital Fund (WCF). The WCF is projecting an increase of five percent over the FY 1985 costs of \$20,000.</p>		
10. GSA recurring reimbursable services.....	...	15
<p>Reimbursable payments are made to GSA for heating, ventilation and air conditioning provided in excess of normal working hours and for guard services. GSA has estimated a five percent increase over 1984 charges.</p>		



	Perm Pos.	Work- years	Amount
11. Government Printing Office (GPO) printing costs.....	...	...	\$4
The GPO is currently projecting a five percent increase over the 1985 printing cost of \$80,000. An additional \$4,000 will be required in 1986.			
12. General pricing level adjustment.....	...	...	691
This request applies GPO pricing guidance as of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1985 estimates.			
Total, uncontrollable increases.....	...	13	3,985
<u>Decreases (Automatic non-policy)</u>			
1. Rate decrease for full-field investigations.....	...	...	-22
The Office of Personnel Management (OPM) has notified users of a \$175 reduction below the FY 1984 base cost of \$1,550 charged for each full-field investigation. The uncontrollable decrease is calculated on average accession of 124 persons per year for a total reduction of 22,000.			
Total decreases.....	...	...	-22
Total, adjustments to base.....	...	13	2,359

General Administration  
Salaries and expenses  
Financial Analysis - Program Changes  
(Dollars in thousands)

Item	Justice Management Division		State & Local Drug Court Program		Total	
	Pos.	Amount	Pos.	Amount	Pos.	Amount
Permanent workyears and compensation.....	...	-4708	...	...	...	-4708
Other personnel compensation.....	...	-54	...	...	...	-54
Personnel benefits.....	...	-82	...	...	...	-82
Travel and transportation of persons.....	...	-159	...	...	...	-159
Printing.....	...	-15	...	...	...	-15
Other services.....	...	-535	...	-45,400	...	-5,935
Supplies and materials.....	...	-123	...	...	...	-123
Equipment.....	...	-202	...	...	...	-202
Total workyears and obligations, 1986.....	...	-1,878	...	-45,400	...	-47,278

General Administration  
Salaries and Expenses  
Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Grades and salary ranges	1985 Estimate		1986 Request		Increase/Decrease	
	Positions	Amount	Positions	Amount	Positions	Amount
Executive Level I, \$66,200.....	1		1		...	
Executive Level II, \$75,100.....	1		1		...	
Executive Level III, \$73,600.....	1		1		...	
ES-6, \$12,300.....	4		4		...	
ES-5, \$70,500.....	5		5		...	
ES-4, \$68,700.....	15		15		...	
ES-3, \$66,232.....	5		5		...	
ES-2, \$63,764.....	3		3		...	
ES-1, \$61,298.....	3		3		...	
GS/GM-15, \$52,282-\$7,940.....	138		138		...	
GS/GM-14, \$44,130-\$7,759.....	115		115		...	
GS/GM-13, \$37,599-\$8,876.....	106		106		...	
GS-12, \$31,619-\$1,105.....	62		62		...	
GS-11, \$26,381-\$3,292.....	39		39		...	
GS-10, \$24,011-\$3,211.....	7		7		...	
GS-9, \$21,804-\$28,347.....	68		68		...	
GS-8, \$19,740-\$5,662.....	47		47		...	
GS-7, \$17,824-\$3,170.....	94		94		...	
GS-6, \$16,040-\$3,055.....	100		100		...	
GS-5, \$14,390-\$18,710.....	72		72		...	
GS-4, \$12,662-\$16,723.....	67		67		...	
GS-3, \$11,468-\$14,896.....	18		18		...	
GS-2, \$10,501-\$13,216.....	3		3		...	
Ungraded positions.....	19		19		...	
Total, appropriated positions.....	995	\$35,279	995	\$33,557	...	-\$1,722
Pay above stated annual rates.....	...	122	...	119	...	-3
Lapses.....	-19	-666	-6	-315	13	351
Net savings due to lower pay scales for part of year...	...	-521	...	...	...	...
Net permanent.....	976	34,214	989	33,351	13	-863
Average ES salary.....		(\$67,622)		(\$64,241)		
Average GS/GM salary.....		(\$35,941)		(\$34,144)		
Average GS/GM grade.....		(9.9)		(9.9)		

General Administration

Salaries and Expenses

Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Object Class	1985 Estimate Workyears	1985 Estimate Amount	1986 Estimate Workyears	1986 Estimate Amount	Increase/Decrease Workyears	Increase/Decrease Amount
11.1 Full-time permanent.....	976	\$34,214	989	\$33,361	13	-853
11.3 Other than full-time permanent:						
Part-time permanent.....	49	1,300	49	1,256	...	-44
Temporary employment.....	25	451	25	436	...	-15
Other part-time and intermittent employment...	10	507	10	490	...	-17
11.5 Other personnel compensation:						
Overtime and holiday.....	23	630	23	615	...	-15
Other compensation.....	...	100	...	100	...	...
11.8 Special personal services payments.....	...	42	...	42	...	...
Total, workyears and personnel compensation.....	1,083	37,244	1,096	36,300	13	-944
12 Personnel benefits.....		3,953		3,960		7
21 Travel and transportation of persons.....		1,305		1,230		-75
22 Transportation & things.....		228		241		13
23.1 Standard level user charge.....		5,524		5,524		...
23.2 Communications, utilities, and other rent.....		4,280		4,504		224
24 Printing and reproduction.....		484		478		-6
25 Other services.....		13,230		8,730		-4,500
26 Supplies and materials.....		1,509		1,458		-51
31 Equipment.....		973		818		-155
Total obligations.....		68,730		63,243		-5,487
Unobligated balance, start-of-year.....		-568		...		...
Total requirements.....		68,162		63,243		-5,487
Relation of obligations to outlays:						
Total obligations.....		68,730		63,243		
Obligated balance, start-of-year.....		8,414		10,964		
Obligated balance, end-of-year.....		-10,964		-12,232		
Outlays.....		66,180		61,978		

General Administration  
Salaries and Expenses  
Consulting and Related Services  
(Dollars in thousands)

	1984 Actual	1985 Estimate	1986 Estimate
Consulting Services.....	\$206	139	139
Management and Professional Services.....	300	300	300
Special Studies and Analysis.....	100	100	100
Total.....	606	539	539

Consulting and related services are used in the General Administration only for services which cannot be performed in-house. Services are required for Interpreter, Reporting, Transcript, Administrative and Technical purposes. No increases are requested in 1986.

23  
23  
23

Department Leadership  
Salaries and expenses, General Administration  
Summary of Requirements  
(Dollars in thousands)

	Perm. Pos.	Work- years	Amount
<b>Adjustments to base:</b>			
1985 as enacted.....	56	58	\$4,608
1985 Pay supplemental requested.....	...	80	...
1985 Appropriation anticipated.....	56	58	4,688
Savings resulting from management initiatives.....	...	...	-116
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....	...	8	...
Annualization of 1985 pay increase.....	...	39	...
Federal Telecommunications System (FTS) rate increase.....	...	15	...
Within-grade increases.....	...	29	...
Health benefits costs.....	...	7	...
GSA recurring reimbursable services.....	...	1	...
Department telecommunications.....	...	13	...
General pricing level adjustment.....	...	24	...
Total uncontrollable increases.....	...	136	...
Decreases (automatic non-policy):			
Rate decrease for full-field investigations.....	...	-2	...
Total decreases.....	56	58	4,706
1986 base.....	56	58	4,706
<b>Estimates by budget activity/program</b>			
<b>I. Program Direction and Policy Coordination:</b>			
Departmental Leadership	56	70	\$4,418
	56	58	\$4,688
	56	58	\$4,706
	56	58	\$4,706
	...	...	...

# Department Leadership

## Salaries and expenses, General Administration

### Justification of Program and Performance

#### Activity Resource Summary (Dollars in thousands)

Activity: Program Direction and Policy Coordination:	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Department Leadership:												
Attorney General.....	20	21	\$1,629	20	21	\$1,640	20	21	\$1,640	...	...	...
Deputy Attorney General.....	24	25	1,993	24	25	1,992	24	25	1,992	...	...	...
Associate Attorney General.....	12	12	1,066	12	12	1,074	12	12	1,074	...	...	...
Total.....	56	58	4,688	56	58	4,706	56	58	4,706	...	...	...

Long-Range Goal. To develop appropriate policies regarding the administration of justice in the United States; to represent the United States effectively in justice-related matters; and to provide advice and opinions on legal matters to the President, members of the Congress, and heads of Executive departments and agencies.

#### Major Objectives.

- To formulate and implement major departmental policies and programs.
- To provide overall supervision and direction to the organizational units of the Department of Justice.
- To manage the Department's resources effectively.
- To establish programs to combat violent crime and drug trafficking; to achieve judicial restraint and court reform; to enact and implement immigration initiatives; and to develop, advocate, and implement criminal justice reform legislation.
- To investigate, process and make recommendations to the President on all prospective candidates for judicial and Justice Department Presidential appointments.
- To coordinate criminal justice matters with federal, state and local law enforcement and criminal justice agencies.
- To maintain and supervise the Attorney General's Honor Law Graduate and Attorney Employment Programs.

Base Program Description. The Attorney General is primarily responsible for developing and implementing the policy objectives of the Department and for managing the Department's programs and resources. He is supported by staff members who coordinate various program activities to ensure consistency with current Department guidelines and policies. Staff members also serve as liaisons between Department organizations and the Attorney General when matters of importance require his direct involvement. The Attorney General keeps the public informed of Department activities by appearing before a wide range of citizens' groups and professional associations. He also meets regularly with the President and members of the White House staff, other Federal agency officials, and members of the Congress on department policy and program matters.

In supporting the policies of the Attorney General, the Deputy Attorney General provides testimony before Congressional committees on legislation affecting the Department and acts as the Department's liaison with the White House staff and the Executive Office of the President. In addition, the Deputy Attorney General exercises the power and authority vested in the Attorney General, to take final action in matters pertaining to: employment, separation and general administration of personnel in the Senior Executive Service, and of attorneys. The Deputy Attorney General oversees the Attorney General's Employment Program for Honor Law Graduates and Judicial Law Clerks. In the Attorney General's absence, the Deputy Attorney General serves as the acting official for the Department.

The Associate Attorney General assists in developing and supervising the implementation of all policies relating to criminal justice, including investigations, prosecutions and corrections, and represents the Department in interagency working groups on law enforcement and other criminal justice matters. In addition he is primarily responsible for:

- (a) directing the administration of the Organized Crime Drug Enforcement Task Force; (b) overseeing the establishment of other program initiatives in the area of violent crime and white collar crime; (c) establishing and overseeing state and local Law Enforcement Coordinating Committees; (d) developing and advocating criminal justice reform legislation; and
- (e) recommending appointments of U.S. Attorneys.



## GENERAL STATEMENT

Mr. DWYER. We have with us today the Acting Assistant Attorney General for Administration, William Lawrence Wallace, who has a statement in support of these requests.

You may proceed in your own way, Mr. Wallace.

Mr. WALLACE. Good afternoon, Mr. Chairman.

If it pleases the subcommittee, I would like to have the full statement submitted into the record, and I will seek to summarize the short statement I have.

I appreciate the opportunity to appear before you in support of the General Administration appropriation request. The Department is requesting for the General Administration appropriation 995 positions, 1,073 workyears, and \$63,243,000. This request reflects three major program changes:

First, under the Comprehensive Crime Control Act, this request includes 12 positions and \$2.5 million to continue implementation and operation of the financial management reporting system to support the Assets Forfeiture and Crime Victims Funds.

Second, the request includes a reduction of \$1,878,000 for support of the President's effort to streamline administrative functions government-wide.

Finally, the request includes the elimination of the State and Local Drug Grant Funds, which are a part of the General Administration budget.

This is a brief summary of our request, and I will be happy to address any questions you and other members of the committee have regarding our request.

[The prepared statement of Mr. Wallace follows:]

## GENERAL ADMINISTRATION

STATEMENT OF THE ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION  
W. LAWRENCE WALLACE  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE  
ON THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE  
JUDICIARY AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you in support of the General Administration appropriation request. The Department is requesting for the General Administration appropriation 995 positions, 1,073 workyears, and \$63,243,000. This request reflects three major program changes for 1986 in the following areas:

Comprehensive Crime Control Act. The request includes 12 positions and \$2,500,000 to continue implementation and operation of the financial management reporting system supporting the Assets Forfeiture and Crime Victims Funds. As you will recall, both of these funds were established with the enactment of the Comprehensive Crime Control Act of 1984. The implementation of the necessary financial management reporting systems will begin in 1985 through the proposed reprogramming of \$610,000 from the State and Local Drug Grant program. The second increment, costing \$1,890,000, provides for the annualization of the 12 positions requested in the supplemental and provides additional systems development resources. Implementation of a financial management system in support of these new Funds is essential to ensure that the Department will be in compliance with reporting

requirements of the Act, as well as providing for the proper internal controls and oversight procedures. For the remaining activities supported within the General Administration appropriation, the Department is seeking a current services level of funding.

Management and Administration. The 1986 estimate also includes a \$1,878,000 reduction for the Justice Management Division (JMD) in support of the President's efforts to streamline administrative support functions. The reduction will be accomplished in administrative areas which do not provide direct support service to the Department's Offices, Boards, Divisions, and Bureaus. This reduction will be accomplished by reducing management and administrative overhead and deferring automated systems efforts that do not directly support the Comprehensive Crime Control Act.

State and Local Drug Grants. The Department proposes that no funding be provided for this program in 1986. Although the Department supports the concept of State and local governments exchanging information to improve law enforcement efforts, we do not believe that these projects should continue to be sustained through federal funding. Continued federal financial support of these programs is inconsistent with the larger goals of making major reductions in federal spending and returning to State and local governments their proper authorities to set priorities for programs that primarily serve State and local objectives.

That is a brief summary of the request and I will be happy to address any questions you or the other members of the Committee may have regarding the Department's request.

AUTHORIZATION BILL

Mr. DWYER. Thank you, Mr. Wallace.  
How much of your fiscal year 1986 budget request requires authorization?

Mr. WALLACE. All of it.

Mr. DWYER. What is the status of that request?

Mr. WALLACE. Of the authorization bill?

Mr. DWYER. Yes.

Mr. WALLACE. The authorization bill has been worked on in the Department. It was submitted to OMB a few weeks ago, and we are now working with OMB to respond to questions, and we expect that it will be submitted to the Congress shortly after the Easter recess.

Mr. DWYER. Do you really expect OMB to have some questions?

Mr. WALLACE. Yes, sir.

Mr. DWYER. I would be surprised.

1985 PROGRAM SUPPLEMENTAL

Mr. DWYER. The 1985 program supplemental. You are proposing to transfer \$3,890,000 from from the State and Local Drug Grants program to the United States Attorneys and Marshals to help support increased requirements as a result of the Bankruptcy Amendments and Federal Judgeship Act of 1984. What would be the impact of these reductions if Congress approves your proposal?

Mr. WALLACE. The transfer of the \$3,890,000 along with an additional \$610,000 transfer from that account would reduce the \$9.9 million available for the State and Local Drug Grant program by a total of \$4.5 million. There would still remain in that account \$5.4 million to begin an orderly phase-out of that program, so far as Federal financial support is concerned.

[The supplemental statement of Mr. Wallace follows:]

GENERAL ADMINISTRATION  
1985 SUPPLEMENTAL REQUEST  
STATEMENT OF THE ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION  
W. LAWRENCE WALLACE  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE  
ON THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE THE  
JUDICIARY AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you in support of the General Administration appropriation request to support a 1985 supplemental which proposed to transfer \$3,890,000 from the State and Local Drug Grant program within the General Administration appropriation to the Salaries and Expenses, United States Attorneys and Marshals appropriation. These resources will support the Bankruptcy Amendments and Federal Judgeship Act of 1984 which provided for the creation of 85 new judgeships. Including the reprogramming of \$610,000 to meet the implementation costs of the Comprehensive Crime Control Act of 1984 the State and Local Drug Grant program will be reduced by a total of \$4,500,000 for 1985. However, there would be \$5,400,000 still available in 1985 in order to begin an orderly phase-out of the program.

Finally, the budget also includes a 1985 rescission of \$166,000 in support of section 2901 of the Deficit Reduction Act of 1984.

I have kept my opening remarks very brief and I would now be happy to address any questions you or the other members of the Committee you may have regarding the Department's request.

## DRUG GRANTS

Mr. DWYER. This has got to have some impact on the drug grants at the state and local levels. Have you measured that impact?

Mr. WALLACE. As far as I know, we have not made a detailed study of the impact, but the Department's position on the program is that it is a good program. It is also the Department's belief is that it should be supported by those levels of government that benefit most directly from the program. We would assume and hope that the state legislatures or other units of local government might see fit to continue the operation of that effort.

Mr. DWYER. But given your commitment to a war on drugs, and also the knowledge of the fiscal problems that a lot of states have, is it fair to make this type of a retreat in your war at this time?

Mr. WALLACE. I do not believe that the Department would consider this a retreat at all on the war with regard to drugs or organized crime or crime in general. We believe that this is primarily a state responsibility, and while the Federal Government has provided over \$40 million to this program over the various fiscal years, it is in a condition now where the states involved—and it doesn't involve all states—could afford to take up the funding.

Mr. DWYER. If I read the papers correctly, drug use is on an increase in all of the states involved in this program.

Mr. WALLACE. The primary option I mentioned so far is for the states to pick it up. There are a couple of other potential Federal sources for this type of program. Under the OCDE program and under the Office of Justice Programs, there is some potential that the states could submit an application. And if that application were acted upon favorably, the Department still might be in a position to assist the states in some regard with these programs.

## ADMINISTRATIVE SUPPORT

Mr. DWYER. Your fiscal year 1986 budget request also reflects a reduction of \$1,878,000 for administrative support. In your statement you say that this reduction will be accomplished in areas which do not provide direct support services to the Department's organizations. Specifically where will these reductions be taken, and what impact will they have on your planned program for 1986?

Mr. WALLACE. Our program in management administration is largely divided into two areas. There are the oversight and policy control areas of our management administration budget, and then there are the direct support service functions. The direct support service functions would have a potential impact on the various programmatic activities of the Department, and for that reason we decided to take our portion of the cut out of the policy and oversight functions. There are basically three ways that we intend to do that.

First of all, we intend to stretch out some of our automated information systems planning and development work. We are doing that through a combination of both deferring things from one fiscal year to another, and though a set of meetings going on with other federal agencies who are doing similar automation or similar other types of projects. We can benefit from the efficiencies of working together with some of the other federal agencies. Therefore, we feel we can sustain this reduction of \$1.8 million.

## PROPOSED WORKING CAPITAL FUND RESCISSION

Mr. DWYER. You are proposing a rescission—this is the Working Capital Fund—of \$3 million which was appropriated for fiscal year 1985, to begin work on a justice telecommunications network. As I recall, the request to begin this work on this project was a very, very high priority last year, and a real hard sell was put on it at this level last year. Therefore, the question that follows is logical: Why are you proposing this rescission?

Mr. WALLACE. It was a very high priority last year, and it still remains a high priority for the Department to move from having five separate networks into a single one. As you may recall, the House acted favorably upon our request for \$6 million in that category last year, and the Senate acted unfavorably in zeroing it out. There was a compromise made to provide us with \$3 million.

The \$3 million, after we got to looking at the detailed plans and the technology available this year, was not sufficient to begin the effort in the way that we had planned. We had planned to take five locations around the country plus the data center in Washington and the one in Dallas, and to put them on line in a single network with this money. And we felt that the \$6 million would provide the opportunity to start with that nucleus, and then later on phase the others in.

When the amount was reduced to \$3 million, and given some of our consultations with people who are in the telecommunications profession, it was not felt that anywhere near a good start could be made with the \$3 million this year, so we are deferring it. In some ways we may be better off because there is the technology that we can expect to be developed which will improve our proposal when we resubmit it at a more appropriate time.

Mr. DWYER. Kind of a warning to us not to react so favorably. Thank you very much. We will have some questions that we will submit to you, and you can provide us answers for the record. Thank you, Mr. Wallace.

Mr. WALLACE. Yes, sir. Thank you.

Mr. DWYER. We have a few more questions which we shall submit to you and you can answer for the record.

[The questions and the answers submitted thereto, follow:]



## QUESTIONS SUBMITTED BY CONGRESSMAN SMITH

## DEPARTMENT OF JUSTICE

Departmental OverviewStatus of AuthorizationQUESTION:

How much of your FY 1986 budget request requires authorization?

ANSWER:

The Department has submitted a proposed appropriation authorization request to the Office of Management and Budget in the amount of \$3,669,616,000. This authorization amount includes all appropriations except the Office of Justice Programs, which was provided in the Comprehensive Crime Control Act of 1984.

QUESTION:

What is the status of your authorization request?

ANSWER:

The Department's 1986 appropriation authorization request has been submitted to the Office of Management and Budget for approval. We expect to transmit this legislative proposal to Congress shortly after the Easter recess.

FY 1985 Pay SupplementalQUESTION:

Please provide for the record how much of the total cost of the 3.5 percent pay raise you are requesting in the FY 1985 pay supplemental for each appropriation account and how much of the total cost you are planning to absorb in each account?

ANSWER:

The following chart reflects the Department's requirements for the 3.5 percent pay raise as well as increased medicare costs.

Analysis of 1985 Increased Pay Costs  
(In thousands of dollars)

APPROPRIATION	Increase in Direct Pay & and Related Benefits	Medi- care	Absorbed by Admin- istrative Action	Addi- tional Appro- priation Required
General Administration.....	\$1,182	\$10	\$124	\$1,068
Working Capital Fund.....	637	...	637	...
U.S. Parole Commission.....	192	2	34	160
General Legal Activities.....	3,401	20	113	3,308

APPROPRIATION	Increase in Direct Pay & and Related Benefits	Medi- care	Absorbed by Admin- istrative Action	Addi- tional Appro- priation Required
Antitrust Division.....	808	7	150	665
Foreign Claims Settlement Commission.....	17	...	17	...
U.S. Attorneys & Marshals....	7,895	67	175	7,787 <sup>a</sup>
Support of U.S. Prisoners.....	...	...	1,636	-1,636
Community Relations Service...	157	2	24	135
Organized Crime Drug Enforcement.....	43	...	...	43
Federal Bureau of Investigation.....	17,639	250	2,619	15,270
Drug Enforcement Administration.....	5,571	38	927	4,682
Immigration & Naturalization Service.....	12,792	71	3,302	9,561
Federal Prison System: Salaries and expenses.....	8,293	10	958	7,345
National Institute of Corrections.....	42	...	42	...
Buildings and Facilities....	65	...	65	...
Federal Prison Industries...	191	...	191	... <sup>b</sup>
Commissary Fund.....	60	...	60	...
Total, Federal Prison System.....	8,651	10	1,316	7,345
Office of Justice Programs....	557	4	561	...
TOTAL, PAY INCREASES.....	59,542	481	11,635	48,388

<sup>a</sup>\$1,636,000 of the pay requirements will be funded by a transfer from Support of U.S. Prisoners.

<sup>b</sup>Authority to increase the limitation on Administrative and Vocational Expenses, Federal Prison Industries, Inc. by \$104,000 for the pay increase is requested.

Budget Request to the Department and to OMB

QUESTION:

Would you provide for the record a list of individual appropriation accounts and include for each the request that was submitted to the Department, the request that was submitted to OMB and the request that was submitted to the Congress in the President's budget. Also please provide the positions requested for each account in each category.

ANSWER:

DEPARTMENT OF JUSTICE  
Appropriation History - 1986  
(Dollars in Thousands)

Appropriation	Organization's Request to the Department		Department Request to OMB		President's Budget	
	Pos.	Amount	Pos.	Amount	Pos.	Amount
General						
Administration..	1,374	\$95,211	1,205	\$90,266	995	\$63,243
Working Capital						
Fund.....	...	50,598	...	9,500	...	...
U.S. Parole						
Commission.....	181	10,810	198	11,168	169	9,415
General Legal						
Activities.....	3,463	235,927	3,373	236,372	3,097	200,277
Antitrust Division	669	46,955	713	49,720	649	43,476
Foreign Claims						
Settlement Comm.	18	1,011	16	877	16	879
U.S. Attorneys &						
Marshals.....	9,046	520,431	8,888	524,600	8,430	478,057
Support of U.S.						
Prisoners.....	...	74,392	...	61,328	...	58,240
Fees and Expenses						
of Witnesses....	...	45,461	...	45,900	...	47,900
Community Rela-						
tions Service...	152	50,169	128	43,202	118	33,217
Assets Forfeiture						
Fund.....	...	...	...	...	...	20,000
Organized Crime						
Drug Enforcement	...	...	...	...	...	...
Federal Bureau of						
Investigation...	23,823	1,405,646	22,872	1,360,853	21,408	1,185,664
Drug Enforcement						
Administration..	6,050	533,712	4,946	391,803	4,564	345,671
Immigration &						
Nat. Service....	12,306	680,044	12,143	648,442	11,599	577,512
Federal Prison						
System:						
Salaries and						
expenses....	11,114	575,804	10,947	570,435	10,826	546,884
National Inst.						
of Corr.....	41	13,290	41	13,150	41	13,120
Buildings and						
Facilities..	77	92,493	63	84,852	57	46,063
Total, Federal						
Prison System.	11,232	681,587	11,051	668,437	10,924	606,067
Office of Justice						
Programs.....	280	144,033	298	146,223	312	139,300
TOTAL, DEPARTMENT						
OF JUSTICE.....	68,594	4,575,987	65,831	4,288,691	62,281	3,808,916

Note: The amounts in the President's budget are not strictly comparable with the requests to the Department and OMB because they include the 3.5 percent pay increase effective January 1985.

General Pricing Level AdjustmentQUESTION:

The Department's budget request reflects an increase of \$43,169,000 for general pricing level adjustments. What percentage increase do these adjustments represent and does the percentage vary among the different appropriations?

ANSWER:

Estimates are consistent with the economic assumptions provided by the Office of Management and Budget, which include indices for Federal nonpay purchases, state and local government purchases, and construction. The construction index is authorized for the Federal Prison System, Building & Facilities appropriation only.

The only appropriations authorized to use the state and local index are the Fees and Expenses of Witnesses, the National Institute of Corrections, and the Office Justice Programs.

The percentage increases used for each index follow:

<u>Index</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>
Federal nonpay	4.4	4.2	4.0	3.7	3.4
State & local	4.8	4.6	4.4	4.0	3.7
Construction	4.8	4.6	4.1	4.0	3.7

QUESTION:

What items are included in this general pricing level adjustment?

ANSWER:

The general pricing level adjustment applies only to those objects of expense established through the market system or where non-Federal employees are the primary producer of the goods and services rendered. This single "uncontrollable" category is used to adjust estimates for the procurement of supplies, materials, and most equipment; contract's with the private sector; transportation costs; common carrier costs; and utilities. As shown in the previous response, different uncontrollable increases apply to organizations which make grants to state and local governments and to organizations involved in constructing Federal facilities.

Administratively Uncontrollable OvertimeQUESTION:

Please provide for the record a table showing the amount of administratively uncontrollable overtime for fiscal years 1984, 1985 and 1986 for each organization which makes AUO payments.

ANSWER:

## DEPARTMENT OF JUSTICE

Administratively Uncontrollable Overtime 1984-1986  
(In thousands of dollars)

<u>Appropriation</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
U.S. Attorneys & Marshals.....	\$60	\$60	\$60
Federal Bureau of Investigation.....	47,390	48,071*	48,264*
Drug Enforcement Administration.....	10,585	12,838	12,883
Immigration & Natural. Service...	16,801	14,540	14,540
Total, Department of Justice.....	74,836	75,509	75,747

\*These are the amounts shown in the budget request; the FBI may revise these estimates, based on additional data in 1985.

QUESTIONS SUBMITTED BY CONGRESSMAN DWYER

DEPARTMENT OF JUSTICE

General Administration

FY 1985 Program Supplemental

QUESTION:

In your statement you say that you are planning to reprogram \$610,000 from the State and Local Drug Grant Program to implement certain administrative costs of the Comprehensive Crime Control Act of 1984. What are the specific activities that would be funded from this reprogramming and when do you plan to submit it to the Committee?

ANSWER:

The Comprehensive Crime Control Act established the Assets Forfeiture Fund and the Crime Victims Fund. The proposed reprogramming of 12 positions and \$610,000 would be used to establish the financial management reporting which will be provided by the Justice Management Division. The initial funding requested in 1985 will be used for the requirements analysis to design a financial reporting system for both of these funds. The \$2.5 million requested in 1986 will be used for the system design and development phases of this project.

The Department is presently in the process of developing the reprogramming materials and expects that the Committee will receive it by the first week of May.

FY 1985 Rescission

QUESTION:

In what specific areas will you be cutting expenses related to the proposed rescission of \$166,000 in the General Administration account?

ANSWER:

The proposed rescission in support of Section 2901 of the Deficit Reduction Act will be applied to the Justice Management Division (\$115,000) and the Executive Office for Immigration Review (\$51,000). The reductions will be applied to travel (\$44,000), printing (\$55,000) and consulting services (\$67,000).

QUESTION:

What impact will this rescission have upon your program operations?

ANSWER:

The impact of the proposed rescission will be nominal. The reduction represents less than four tenths of one percent of these organizations' 1985 anticipated appropriation.

FY 1986 RequestComprehensive Crime Control ActQUESTION:

You are requesting 12 positions and \$2.5 million to continue implementation and operation of the financial management reporting system supporting the Assets Forfeiture and Crime Victims Funds. Would it be possible to finance these administrative items from the assets in the Funds?

ANSWER:

The Department has taken the position that administrative expenses related to the management of these two funds should not be applied against those accounts. Management and administrative support expenses have been requested in the Department's regular appropriations.

QUESTION:

If not, does the Department have any plans to seek a legislative change which would permit these items to be financed from the assets in the Funds?

ANSWER:

The Department is considering various technical amendments to clarify aspects of both Funds. Although charging administrative expenses may be permissible, the Department believes that these expenses should not be financed through the Funds.

Working Capital FundQUESTION:

Several of the plans for computer acquisitions in this year's budget would give Department organizations a computing capability at geographically disbursed sites. How have these plans been incorporated into the expansion plans for the Justice Data Centers? Please provide specific information on the impact of these projects on processing capability, storage capacity and telecommunications requirements.

ANSWER:

There are five major techniques by which the managers of the Justice Data Centers forecast and respond to the potential impact of the organizations' changing requirements for processing capability, storage capacity, and telecommunications:

1. Justice Data Centers representatives, as part of the Computer Technology and Telecommunications Staff, (CTTS) review all organization's formal Automated Information Systems (AIS) plans, and participate in the review of related AIS requests for hardware, software and services. Participating in such

efforts provides the data centers with appropriate lead time to incorporate changes in the users processing needs or approaches into the Central Facilities Service Plan.

2. Order DOJ 2830.1C requires the organizations which plan to use the Justice Data Centers to participate in joint planning with data center management.
3. The Justice Data Centers regularly hold users' meetings to discuss matters of mutual concern, including specific changes to workload or workflow. The requirement for the frequency of such meetings at the working level increases as organizations undertake transition from a centralized to a distributed environment.
4. CTTIS publishes a data center facilities management plan, which reflects the actual and projected processing/storage workloads of data center users, and provides for their identified growth requirements. We plan to update this document in the near future.
5. Capacity planning studies are periodically conducted. Recently a management study was conducted to improve the Department's efforts in developing an effective capacity planning program.

These five techniques are used in the approval process prescribed in the order DOJ 2830.1C, entitled "Automated Information Systems (AIS) Policies". This process establishes the validity of an Department component's request to acquire decentralized capability.

Under Order DOJ 2830.1C, each major Department organization is required to implement, on a phased basis, a formal, long-range AIS planning phase, resulting in the development of strategic and tactical AIS planning documents. All major bureaus and the Justice Management Division have completed such plans, and the litigating organizations are now engaged in the AIS planning process.

Attachment 1, part of a technology assessment prepared by the Justice Management Division, provides an explanation of the concept of the various levels of computing capability at (and from) geographically disbursed sites.



AUTOMATED DATA PROCESSING EQUIPMENT

Included in this category are small, medium, and large scale central processing units (CPUs), minicomputers, and intelligent terminals (which include microcomputers, such as personal computers).

ADP equipment continues to provide increased processing speed, less cost per processing unit, and greater miniaturization of circuitry. Large scale processors, such as those now installed in the Justice Data Centers, execute approximately thirteen million instructions per second per machine. By the 1990's, equipment will be available to execute 40 to 60 million instructions per second. Decreasing hardware costs will continue as the cost of miniaturized circuitry declines on a cost performance basis.

Figure 1 illustrates four levels of processing capability, each of which can function independently and can be linked into a hierarchical network with multiple configurations. The levels are:

- Level 1. Common User Facility: Large-scale central processing units.
- Level 2. Satellite Processors: Medium-scale processing units, for example, the IBM 4331.
- Level 3. Distributed Processors: Mini-computers and larger microcomputers.
- Level 4. Access Terminals: Either intelligent or non-intelligent terminals (and microcomputers).

Manufacturers of CPU's are also concentrating their efforts on the modularity of the processing units. Currently, users deal with "generations" of equipment. This involves a complete computer system replacement from an older generation to a newer one and is referred to as a "family line." The modular concept allows replacement of generations and family lines of central processing units without replacement of all the peripheral equipment associated with the entire computer system. Modularity is evident in the latest technology and will continue throughout the 1990's. Thus, users will continue to gain the advantages associated with rapid and non-disruptive capacity and technological upgrades.

# LEVELS OF PROCESSING

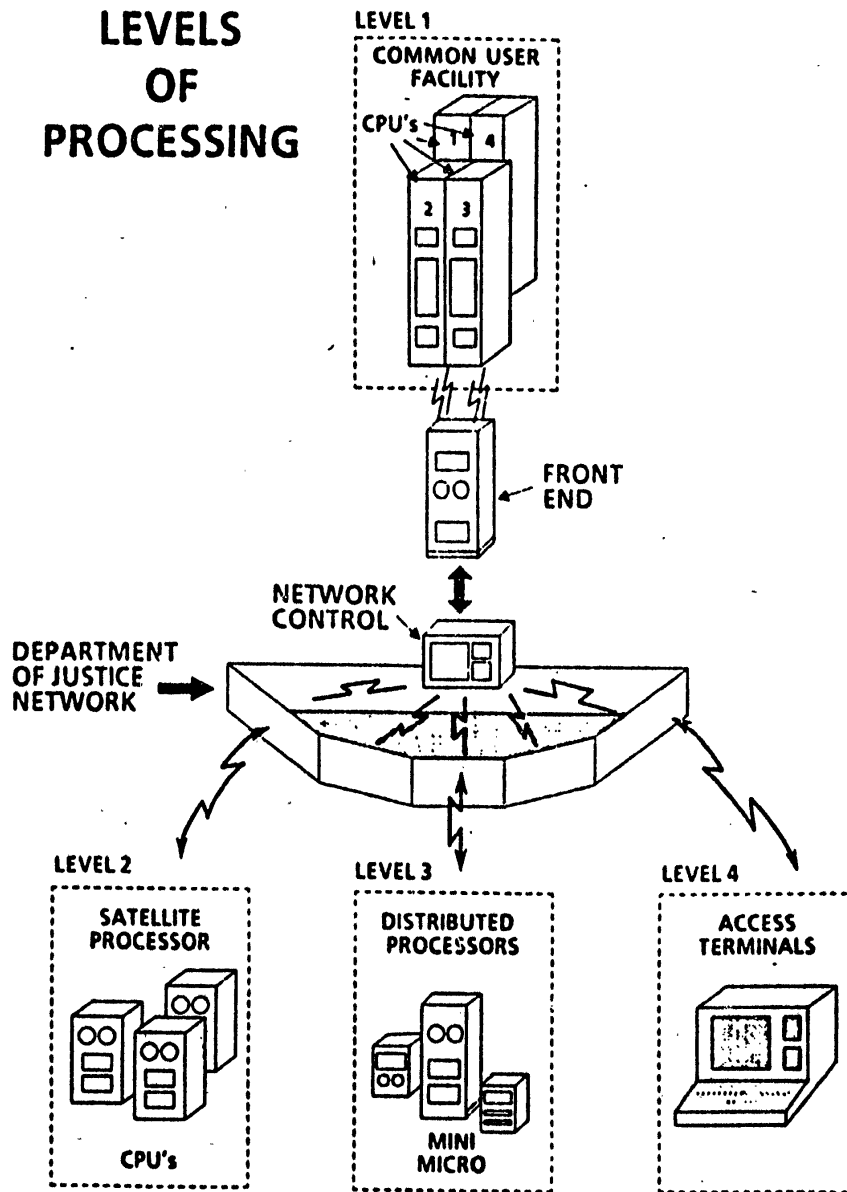


FIGURE 1

One of the most dynamic impacts of technology has been in the microcomputer and intelligent terminal arena. Intelligent terminals are capable of performing processing functions themselves, hence the term "intelligent." This intelligence is reflected in a range of functions from simple data entry and retrieval to word processing/office automation work station processing. From an equipment standpoint, the use of terminals has escalated tremendously and will continue to do so throughout the next decade. Experts estimate that the ratio of terminal to employee will increase from an average of one terminal per 25 employees in 1980, to one per five employees by 1990. This massive increase is the result of greater intelligent terminal capability, the lower cost and physical size of the devices, and the potential for cost-effective increases in employee productivity.

QUESTION:

I understand that the Department of Justice is asking for more than \$80 million to lease computer hardware in FY 1986. Please provide the details on what computer hardware the Department is leasing, how long you plan to retain this equipment and what steps you have taken to ensure that continued leasing of this equipment is in the best interest of the Government.

ANSWER:

The \$80,266,000 for the lease of equipment shown on line 3A of the Department-wide Information Technology Systems exhibit is primarily attributable to the leasing costs projected for the Federal Bureau of Investigation (FBI), and for the Department's Working Capital Fund (WCF).

The FBI has projected leasing costs of \$22,150,000 for the rental of the FBI Computer Center hardware, commercial telephone and telecommunications equipment. The WCF projected amount of \$36,403,000 is estimated for the lease of data center hardware, JURIS terminals, telephone, and telecommunications equipment. Other leasing costs include \$6,024,000 for the Drug Enforcement Administration, \$4,951,000 for the Civil Division, and \$4,417,000 for the U.S. Attorneys.

The Department has standard procedures for the acquisition of hardware to ensure that the method of acquisition is appropriate, and in the best interest of the Department. For example, depending on the nature of the equipment, and such factors as the rate of the advancing technology and the utility of the equipment to the Department, a life cycle for new equipment is determined. As the end of the life cycle of the equipment approaches, organizations must plan for its recompetition and/or eventual replacement to ensure that potentially obsolete hardware is replaced on a timely basis.

In addition, at the time of acquisition, cost comparison analyses are developed for all equipment acquired by the Department. When we procure equipment, we request that the vendors propose alternate pricing schemes, such as purchase vs. lease, or lease-to-purchase-to-buy options, and make their bids according to the projected life cycle of the equipment. Based on further analyses, the option that is in the best interest of the Government is selected. Often, it is difficult to determine before the contract negotiations occur, which alternative option such as lease or purchase is the optimum selection for the organization. In many cases, planned estimated lease costs could instead result in a lower purchase price at the time of contract negotiation.

QUESTION:

The "Information Technology Systems Exhibits" in the FY 1986 budget request show a 1985 obligation of \$2.47 million for Data Center enhancements in Washington and Dallas, but do not describe the enhancements or what is being done at each center. What are the specific enhancements and for which center they are intended?

ANSWER:

In FY 1985, the Department of Justice requested enhancements in the amount of \$2,470,000 for the data centers in Washington, D.C. and Dallas, Texas. Specifically, \$870,000 was requested to support an environmental upgrade for the Washington, D.C. Center. This enhancement provides appropriate air conditioning and electrical system upgrades necessary to support additional equipment. Automated monitoring techniques, such as an automated alarm system, will be installed. Such a system will alert the operational staff to air conditioning problems or water leaks which could quickly terminate operation at the Center. Also included in the requested funding is a physical expansion of the computer area to allow for the housing of additional computer output equipment, such as laser printers and graphics plotters not readily accessible now due to lack of contiguous space. Additionally, design and construction deficiencies will be corrected to prevent the disruption of operations.

An additional data processing facility was established in Dallas, Texas, in May 1984, to meet the increased demand for data processing capacity, and to provide back-up capability in the event of a failure in the Washington, D.C. facility. An amount of \$1,600,000 was requested to begin the renovation of space in the government-owned Terminal Annex Building to house the data center, which is presently located in temporary quarters of a privately-owned building. The requested funding will allow for architectural design and engineering studies as preliminary steps to the development of the new facility.

Statutory Inspector GeneralQUESTION:

How will the Justice Management Division and the Office of Professional Responsibility be affected if a statutory Inspector General is established for the Department of Justice?

ANSWER:

The Department has taken the consistent position that any Inspector General legislation must recognize the Attorney General's responsibility as the chief law enforcement officer and chief litigator of the Federal Government. The previous versions of these proposals have not recognized this principle. More specifically, none of the previous versions have recognized the broad responsibilities and role of the Counsel, Office of Professional Responsibility (OPR). The bills have not acknowledged that the Counsel, OPR has more authority than an Inspector General would have, nor have the versions reconciled the responsibilities between the Inspector General and the Counsel of OPR.

With regard to the Justice Management Division (JMD), previous versions of Inspector General legislation have failed to take account of the evaluation units in JMD and in other divisions of the Department. These units have a significant role in assisting management and should not be merged into an Inspector General's office, as the past bills have proposed.

## QUESTIONS SUBMITTED BY CONGRESSMAN EARLY

General Administration1985 Supplemental RequestQUESTION:

The 1985 supplemental request includes 12 positions and a reprogramming of \$610,000 to implement provisions of the Crime Control Act. The FY 1986 budget included \$2.5 million to annualize these 1985 requirements. You state these resources are to be used to provide financial management systems support for the Crime Victims and Assets Forfeiture Funds. Could you be a little more specific about these support systems? Do you already have 12 people in mind to fill these positions you are requesting in the supplemental?

If not, how long will it take you to get them on board?

ANSWER:

The Justice Management Division (JMD) has been assigned the responsibility to develop and operate the financial management systems in support of both the Assets Forfeiture and Crime Victims Funds. Regarding the Assets Fund, for which the United States Marshal Service has day-to-day management responsibility, JMD will provide the necessary financial management oversight as well as developing the necessary accounting systems improvements. These improvements are necessary so that the Assets Fund can interface with the existing Legal Activities and General Administration (LAGA) accounting system. Currently, the LAGA system supports the United States Marshals Service.

The Crime Victims Fund activities are financed through the deposit of most criminal fines and penalties. The primary collection agent for the government will be the United States Attorneys. JMD currently has responsibility for providing the United States Attorneys with accounting support and manages the Department's financial management Debt Collection System. Because JMD already provides the U.S. Attorneys with financial management support, it will be developing the necessary financial management systems support to the U.S. Attorneys fine collection efforts.

Both of these funds require extensive financial management support and the resources requested will be used to develop the necessary automated information systems to meet their requirements.

No particular individuals have been selected. After we know that the Congress will support our request, it will take approximately 90 days to have the staff on board.

Management and Administration CutQUESTION:

You are requesting a \$1,878,000 reduction in FY 1986 for the Justice Management Division (JMD). You state this reduction will be accomplished by reducing management and administrative overhead and defer-

ring automated systems efforts that do not directly support the Crime Control Act. Last year, didn't you ask for a \$5 million increase to continue an automation project?

ANSWER:

Yes. The 1985 President's Budget included a request for 3 positions and \$5,000,000. The House approved the request but it was turned down in the Senate. It was not included in final Congressional action.

QUESTION:

Has the automation project been completed? If not, how come this program was so important last year but this year is being deferred? Although we all agree implementation of the Crime Control Act is important, should we let other initiatives, previously taken by the Department fall to the wayside because of the Crime bill expenses? Last year you indicated the system conversion implementation phase of this project would not even begin until late in FY 1985.

ANSWER:

The automation project has not been completed. The Department is deferring its effort, and believes that discretionary projects such as this should be delayed during this period of fiscal constraint. Efforts in support of the Comprehensive Crime Control Act are mandated by that Act, and therefore the Department is going ahead with that project while it defers its other automated administrative systems program.

1985 Pay Supplemental

QUESTION:

Does your pay raise supplemental cover the entire amount of the January pay raise? If so, were you not asked, or not able to absorb any of it?

ANSWER:

Total 1985 pay cost requirements for the General Administration appropriation are \$1,388,000. Of this amount the Department is asking for \$1,264,000 as a supplemental, and will absorb \$124,000.

Executive Office for Immigration Review

QUESTION:

I see no increases are requested for the Executive Office for Immigration Review (EOIR). Last year you requested a \$2.7 million increase to expedite the processing of increasing caseloads and backlog. How many more cases did you process in calendar year 1984 compared to 1983?

ANSWER:

The Board of Immigration Appeals completed 4,068 cases in 1983. For 1984, it completed 3,339 cases 729 less than in 1983. The immigra-

tion judges completed 89,818 matters in 1983. For 1984, 102,718 matters were completed; an increase of 13,100 cases.

QUESTION:

What is your current backlog? I assume it must be substantially less than last year if you are seeking no increases.

ANSWER:

As of September 30, 1984, the Board had 740 pending cases. The immigration judges had 55,311 pending cases. Comparing this to September 30, 1983, at that time, the Board had 1,181 pending cases, and the immigration judges had 31,151 pending cases.

QUESTION:

Is the EOIR involved at all in the case of Karl Linmas, the alleged Nazi war criminal from Estonia? I understand a hearing was supposed to take place on March 8, 1985, regarding his status and deportation.

ANSWER:

Yes. On July 31, 1984, the Board rendered a decision in the Linmas matter affirming the immigration judge on his finding of deportability and denial of relief from deportation. The Board remanded the case to the immigration judge on the issue of designation of country of deportation. Further hearings have been held on this issue. The final hearing was held on April 5, 1985, in New York. The case is expected to be closed and the immigration judge will render a decision shortly.

Regional Information Sharing System

QUESTION:

Again for FY 1986 you are proposing to abolish the State and Local Drug Grant program (or multi-state projects or Regional Information Sharing Systems (RISS) project). Moreover, your FY 1985 budget proposes transferring \$3.890 million from this program to support the 85 new Federal judgeships. Another \$610,000 is proposed for reprogramming to the Justice Management Division for implementation of the Crime Control Act. This totals \$4.5 million, so \$5.4 million of the original \$9.9 million would remain to phase out the program.

We constantly hear from state and local governments that rely on the technical surveillance equipment and training equipment made available through this program. How many of the project member agencies requested assistance during FY 1983? FY 1984?

ANSWER:

During FY 1983 and 1984 technical surveillance equipment was used 1,505 times. We do not have available how many times training equipment was made available and, since equipment (such as cameras) can be used for both investigative work and training purposes, it would probably be very difficult to collect those figures with any accuracy.



QUESTION:

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When asked last year if the RISS projects would be able to continue without Federal assistance, the Department's reply was that the Office of Justice Assistance (OJA) was addressing that issue in several studies and surveys that would not be available until the end of the year. What were the results of these surveys/studies?

ANSWER:

No studies have been conducted to determine whether RISS projects would be able to continue without Federal assistance. Historically, the Department's position has been that the RISS projects were intended to be funded with seed money until they were able to generate sufficient state and local funding to ensure their continued existence. We believe the time has come to dedicate these resources to other purposes at the Federal level.

QUESTION:

The Department's rationale year after year for terminating this program is that it supports the concept of the program, but that states and local governments should pick up the costs. Yet this Department is requesting an increase of \$61.236 million in FY 1986 for state and local assistance mandated by the Justice Assistance Act to help state and local governments combat violent crime.

How is the concept, mandated by the Justice Assistance Act, to help states and localities so much different than the RISS program?

ANSWER:

The major differences in the Justice Assistance Act and the RISS program are as follows:

1. State and Local Assistance programs require a 50 percent match. RISS projects require no match.
2. State and Local Assistance programs can be funded for a maximum of four years. One RISS project has been funded since 1975, or 11 years, and all of the programs have been funded since 1980, or a minimum of six years.
3. Under the State and Local Assistance program states and localities decide what their priorities are and select the highest priorities to fund. Under RISS no competition against other priorities exists.
4. States and localities must pay for all administrative costs. RISS administrative costs are part of the Federal grant.

QUESTION:

Will the two programs perform duplicative functions?

ANSWER:

The programs are not duplicative. The RISS project deals with only one narrow part of the criminal justice system while the State and Local Assistance program authorizes assistance to projects of proven effectiveness in law enforcement, prosecution, corrections, courts and crime prevention. Thus, under the State and Local Assistance program states and localities can make their own determination as to where the few available dollars are most needed.

QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

General Administration

QUESTION:

Your FY 1986 request reflects a decrease of \$5,400,000 for the Regional Information Sharing Systems (RISS) program. What is your justification for this decrease?

ANSWER:

No funding is being requested for the Regional Information Sharing Systems (RISS). The Department has no objection to the notion of state and local law enforcement agencies exchanging information; however, the cost of such efforts should be borne by the participating agencies.

Considering the fact that we have invested over \$40 million in this program over the years; I believe it is now appropriate that state and local funds be used for those projects which have proven to be beneficial to them.

QUESTION:

If the Committee does not approve the transfer, where will you get the funds to provide the resources required by the U.S. Attorneys and the U.S. Marshals for the 85 new Federal judgeships?

ANSWER:

The Department has exhausted all other alternatives and believes that the transfers of \$3,890,000 from the Regional Information Sharing Systems and of prior year unobligated funding from the Juvenile Justice program to meet this need is most appropriate.

## QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

## DEPARTMENT OF JUSTICE

General AdministrationQUESTION

Why is the State and Local Drug Grant program being phased out? I understand that this program has been widely successful. Is the difficulty of administration the cause for its demise?

ANSWER

No funding is being requested for the Regional Information Sharing Systems (RISS). The Department has no objection to the notion of state and local law enforcement agencies exchanging information; however, the cost of such efforts should be borne by the participating agencies.

Considering the fact that we have invested over \$40 million in this program over the years; I believe it is now appropriate that state and local funds be used for those projects which have proven to be beneficial to them.

In our view, these funds can be more effectively used at the Federal level to meet our obligations in carrying out our responsibilities in the Federal criminal justice system. While our position is not based on the difficulty of administering the RISS projects, it is nevertheless a continuing problem. The expenditure of Federal funds requires that certain Federal standards be met. Without any day-to-day, hands-on supervision, it is very understandable that mistakes can be made through inadvertence or misunderstanding which are only later discovered, if at all, during periodic Federal audits. Since these programs benefit state and local governments, we believe the most appropriate approach is to have these programs funded at the state and local level thereby eliminating any difficulties of administration at the Federal level.



THURSDAY, MARCH 28, 1985.

**ANTITRUST DIVISION**

**WITNESSES**

**J. PAUL McGRATH, ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION**

**RALPH J. JUSTUS, EXECUTIVE OFFICER, ANTITRUST DIVISION**

**BUDGET REQUEST**

Mr. DWYER. The next item that we shall consider this afternoon is the fiscal year 1986 budget request for the Antitrust Division. The request is for \$43,476,000, an increase of \$957,000 above the amount appropriated to date for fiscal year 1985.

We shall insert at this point in the record the justification materials submitted in support of this request.

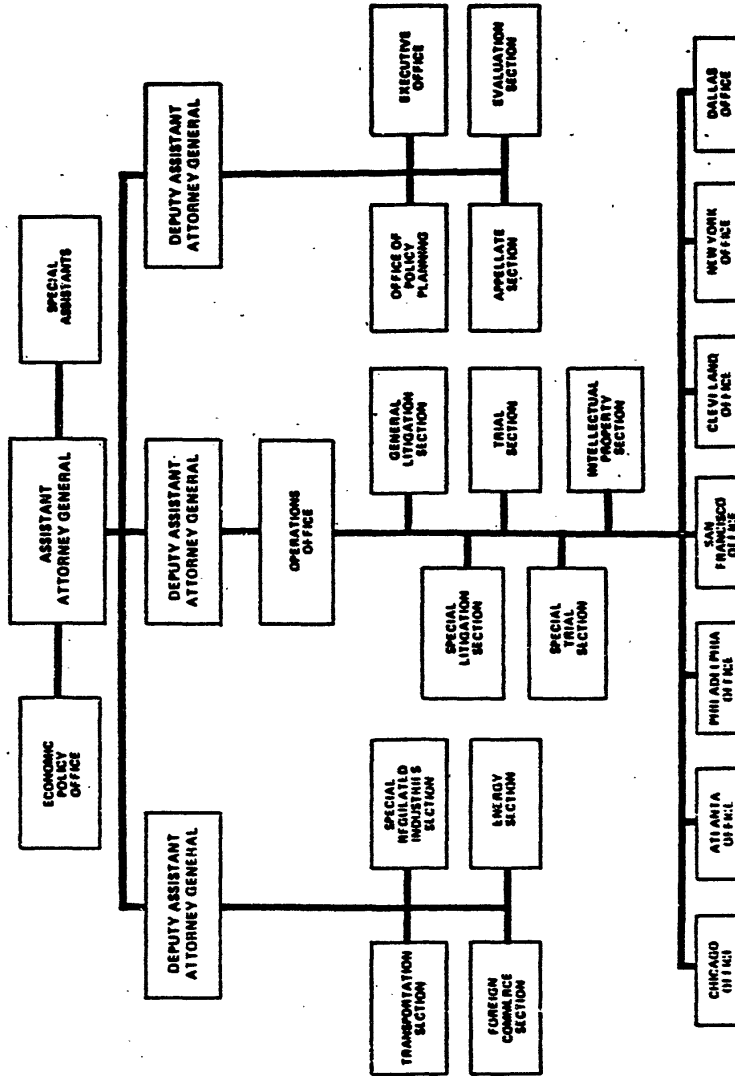
[The justifications follow:]

(365)

Department of Justice  
Legal Activities  
Salaries and expenses, Antitrust Division  
Estimates for Fiscal Year 1986  
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**ANTITRUST DIVISION**



**APPROVED:**

DATE:

**EDWARD C. SCHMULTS**

## Legal Activities

### Salaries and expenses, Antitrust Division

#### Summary Statement

#### Fiscal Year 1986

For the 1986 budget year, the Antitrust Division is requesting 649 positions, 631 workyears, and \$43,476,000. This represents net uncontrollable changes of \$57,000 and no program increase or decrease.

The mission of the Antitrust Division is to protect and promote competition. The United States economy has grown and prospered as a result of competition, and very often the economy's failures and weaknesses can be traced to the attenuation of competition in particular markets. By fostering innovation and efficiency, competition serves as the fundamental process by which the total wealth produced from America's resources is maximized. The Division historically has sought, and in 1986 will continue to seek, to accomplish its mission in two basic ways. First, the antitrust laws provide the Division with effective tools to eliminate private impediments to competition. The Division vigorously prosecutes violations of these laws to punish and deter the efforts of private parties to acquire market power and to use that power to raise prices or restrict supplies. For example, since 1979, the Division has brought an unprecedented and increasing number of successful criminal prosecutions against individuals and firms in a number of industries, including those who rigged bids on government projects. Second, in addition to enforcing the antitrust laws, the Division constantly monitors and evaluates the antitrust statutes and their interpretation by the courts, and proposes amendments to ensure that antitrust law effectively serves its goal of promoting competition. For example, the Division has participated as *amicus* in a number of cases before the Supreme Court and the federal courts of appeals in order to facilitate the sound development of antitrust law.

The Division plans to pursue an active, vigorous, and fair-minded merger enforcement policy that distinguishes the contribution that many mergers make to the free market system from the potential economic threat posed by others. Such a policy will foster and improve competition rather than stifle it. The Division's policy will provide considerable benefit to the economy, the consumer, and the competitiveness of American industries in the world market. Many mergers permit firms to realize scale economies in production, distribution and marketing, reduced transaction costs, reduced transportation costs, improved management, and the elimination of duplication that lower fixed costs and reduce overhead. While recognizing the substantial benefits of a free merger market, the Division does not issue a blanket endorsement of individual transactions. Proposed mergers require extensive and comprehensive investigation. If potential competitive problems are discovered, the companies involved are notified. If those problems are eliminated through binding agreements, the Division will not block the transaction. However, steps will be taken to ensure, through contempt actions if necessary, that the parties involved fully abide by these agreements.

The Division also endeavors to accomplish its mission by appearing before Congress and the various federal regulatory agencies to advocate limitations on government interference in the marketplace. Government regulation frequently has characteristics and effects that are as inimical to the economic well-being of Americans as private restraints of trade, particularly when such regulation has little purpose other than to shield activities by private parties that would be illegal under the antitrust laws. On the other hand, when market failures or overriding social goals clearly require regulation, the Division works with Congress and regulatory agencies to ensure that those failures are effectively eliminated, or other social goals successfully accomplished, with minimum disruption of the competitive processes.



The Division has six budget programs in 1986. They are:

Federal Appellate Activity--Through the resources provided for this program, the Division prosecutes and defends appeals from decisions involving Division litigation in the Supreme Court and federal courts of appeals; it represents certain regulatory agencies in the courts of appeals; and it participates as *amicus* in private cases to help the appellate courts interpret the antitrust statutes in a way that will best maximize consumer welfare.

Termination and Prevention of Private Cartel Behavior--The resources provided for this program enable the Division to monitor the economy for possible anticompetitive agreements, such as bid rigging and price fixing, that violate Section 1 of the Sherman Act; to prosecute, both criminally and civilly, parties to such illegal agreements; and to monitor injunctive decrees that were obtained as a result of such prosecutions to ensure compliance and to determine whether the terms of those decrees continue to be necessary and effective to promote competition.

Preservation of Competitive Market Structure--Through the resources provided for this program, the Division is able to evaluate proposed and consummated mergers and acquisitions for the purpose of challenging those that change the structure of the market in a way that seriously threatens competition in violation of Section 7 of the Clayton Act; to prevent or dissipate monopoly power that has been acquired or maintained (or where there has been an attempt to acquire or maintain such power) in violation of Section 2 of the Sherman Act; and to monitor decrees obtained under this program to ensure compliance and to ensure that their terms continue to promote competition.

Policy Analysis, Legislation and Training--The Division uses the resources provided for this program to work with the Congress to ensure that legislation is drafted in a way that best serves to promote competition; to ensure that the investigations undertaken, and the cases brought, are handled in the most efficient and effective manner and have a sound economic basis (that is, will have the effect of enhancing consumer welfare); and to provide adequate training to the professional staff.

Competition Advocacy Program--The resources provided for this program enable the Division to advocate, before federal regulatory agencies and in executive branch deliberations, the elimination of unnecessary regulation and the adoption of the least anticompetitive means necessary to achieve a sound national economy and enhance consumer welfare.

Management and Administration--This program provides the resources necessary to provide the Division with policy guidance and administrative support.

Legal Activities

Salaries and expenses, Antitrust Division

Proposed Authorization Language

The Antitrust Division is requesting the following authorization language:

Annual Authorization Proposal

For the Antitrust Division: \$43,476,000.

Permanent Authorization Proposal

The Antitrust Division is authorized to make payments from its appropriation for:

- "(1) the hire of passenger motor vehicles
- "(2) advance of public monies under 31 U.S.C. 3324; and
- "(3) necessary accommodations in the District of Columbia for conferences and training activities.

Legal ActivitiesSalaries and expenses, Antitrust DivisionJustification of Proposed Changes in Appropriation Language

The 1986 budget estimates include proposed changes in appropriation language listed below. New language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses, Antitrust Division

For expenses necessary for the enforcement of antitrust and kindred laws, [\$43,519,000]A. \$43,476,000

(15 U.S.C. 4, 9, 18, 21, 1312a; 28 U.S.C. 501, 506, 510-512, 514-516, 519, 524, 525; Department of Justice and Related Agencies Appropriation Act, 1985; additional authorizing legislation to be proposed.)

(Sec. 511. The amount appropriated in this Act for each appropriation account listed in this section is reduced as follows: "Salaries and Expenses, Antitrust Division", \$1,000,000;)

(Department of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriation Act, 1985)

Explanation of Changes:

No substantive changes proposed.

Legal Activities  
Salaries and expenses, Antitrust Division  
Crosswalk of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's		Congressional		1985 Pay		1985		1985	
	Budget Request	Pos. FY	1985 Request	Pos. FY	Supplemental	Pos. FY	Proposed	Pos. FY	Anticipated	Pos. FY
	Amt.		Amt.		Requested		Rescissions		Amt.	
Enforcement of antitrust and kindred laws:										
Federal appellate activity.....	23	23	\$1,234	---	---	---	---	---	23	23
Termination and prevention of private cartel behavior.....	222	202	15,616	---	---	---	---	---	222	202
Preservation of competitive market structure.....	164	161	16,196	---	---	---	---	---	164	161
Policy analysis, legislation and training.....	92	91	4,962	---	---	---	---	---	92	91
Competition advocacy program 1/....	59	59	2,789	---	---	---	---	---	59	59
Management and administration.....	89	95	4,048	---	---	---	---	---	89	95
Total.....	649	631	44,845	---	---	---	---	---	649	631

Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Actions

Congressional action reduced the 1985 appropriation by \$887,000 for SLUC, \$439,000 for the restoration of the one percent reduction, and an unspecified \$1,000,000.

Supplementals Requested

The pay request provides \$665,000 to meet increased pay requirements.

Proposed Rescission

In accordance with Section 2901 of the Deficit Reduction Act of 1984 (P.L. 98-369), \$65,000 is proposed for rescissions in travel (\$40,000) and printing (\$25,000) areas.

1/ The budget request for 1985 assumed that 20 positions and \$775,000 would be transferred from the Civil Aeronautics Board to the Competition Advocacy Program. Public Law 98-443 prevented this transfer.

Legal Activities

Salaries and expenses, Antitrust Division

Summary of Requirements  
(Dollars in thousands)

	Perm. Pos.	Work- years	Amount
<u>Adjustments to base:</u>			
1985 as enacted.....	649	631	\$42,519
1985 pay supplemental requested.....	---	---	665
Proposed rescissions.....	---	---	-65
1985 appropriation anticipated.....	649	631	43,119
Savings resulting from management initiatives.....	---	---	-846
Uncontrollable increases.....	---	---	1,219
Decreases.....	---	---	-16
1986 base.....	649	631	43,476

	1984 Actual		1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Estimates by budget activity										
Enforcement of antitrust and kindred laws.....	704	\$43,524	649	\$43,119	649	\$43,476	649	\$43,476	---	---

**Legal Activities**  
**Salaries and expenses, Antitrust Division**  
**Summary of Resources by Program**  
(Dollars in thousands)

Estimates by Program	1984 as Enacted			1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY Amount	NY Pos.	Perm. Pos.	NY Amount	NY Pos.	Perm. Pos.	NY Amount	NY Pos.	Perm. Pos.	NY Amount	NY Pos.	Perm. Pos.	NY Amount	NY Pos.	Perm. Pos.	NY Amount
Federal appellate activity.....	23	23	\$1,141	23	23	\$1,129	23	23	\$1,206	23	23	\$1,206	23	23	\$1,206	---	---
Termination and prevention of private cartel behavior....	211	194	13,957	211	192	13,736	222	202	15,105	222	202	15,216	222	202	15,216	---	---
Preservation of competitive market structure.....	208	207	17,056	208	203	16,733	164	161	15,385	164	161	15,586	164	161	15,586	---	---
Judgment enforcement.....	22	21	1,284	22	21	1,257	---	---	---	---	---	---	---	---	---	---	---
Policy analysis, legislation and training.....	92	91	4,567	92	91	4,521	92	91	4,859	92	91	4,872	92	91	4,872	---	---
Competition advocacy program....	59	59	2,550	59	59	2,527	59	59	2,714	59	59	2,717	59	59	2,717	---	---
Management and administration...	89	95	3,674	89	95	3,621	89	95	3,850	89	95	3,879	89	95	3,879	---	---
<b>Total.....</b>	<b>704</b>	<b>690</b>	<b>44,229</b>	<b>704</b>	<b>684</b>	<b>43,524</b>	<b>649</b>	<b>631</b>	<b>43,119</b>	<b>649</b>	<b>631</b>	<b>43,476</b>	<b>649</b>	<b>631</b>	<b>43,476</b>	<b>---</b>	<b>---</b>
<b>Other Workyears:</b>																	
Holiday.....	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Overtime.....	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
<b>Total compensable workyears...</b>	<b>698</b>	<b>698</b>	<b>---</b>	<b>698</b>	<b>692</b>	<b>---</b>	<b>639</b>	<b>639</b>	<b>---</b>	<b>639</b>	<b>639</b>	<b>---</b>	<b>639</b>	<b>639</b>	<b>---</b>	<b>---</b>	<b>---</b>

# Legal Activities

## Salaries and expenses, Antitrust Division

## Justification of Program and Performance

### Activity Resource Summary (Dollars in thousands)

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount
Activity: Enforcement of antitrust and kindred laws:												
Federal appellate activity.....	23	23	\$1,206	23	23	\$1,206	23	23	\$1,206	---	---	---
Termination and prevention of private cartel behavior.....	222	202	15,105	222	202	15,216	222	202	15,216	---	---	---
Preservation of competitive market structure.....	164	161	15,385	164	161	15,586	164	161	15,586	---	---	---
Policy analysis, legislation and training.....	92	91	4,859	92	91	4,872	92	91	4,872	---	---	---
Competition advocacy program.....	59	59	2,714	59	59	2,717	59	59	2,717	---	---	---
Management and administration.....	89	98	3,850	89	98	3,873	89	98	3,873	---	---	---
Total.....	649	631	43,119	649	631	43,476	649	631	43,476	---	---	---

This budget activity includes all resources of the Antitrust Division for the mission of protecting and promoting competition.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount
Federal appellate activity.....	23	23	\$1,206	23	23	\$1,206	23	23	\$1,206	---	---	---

Long-Range Goal: To provide effective representation before courts of appeals and the U.S. Supreme Court for antitrust cases and in proceedings to review orders of certain regulatory agencies.

### Major Objectives:

To support sound and consistent development and enforcement of antitrust laws through the expert prosecution and defense of appeals in cases brought by the United States.

To protect the interests of the United States in the development of antitrust law through participation as amicus curiae in private antitrust appeals.

To advocate competition in appeals taken from regulatory proceedings.

**Basic Program Description:** In order to provide effective representation, the Division acts on antitrust cases before the Supreme Court as authorized by the Solicitor General; represents the interests of the United States in the courts of appeals in all civil and criminal cases brought by the United States under the federal antitrust laws; reviews certain decisions of the Interstate Commerce Commission (ICC), the Federal Communications Commission (FCC), the Federal Maritime Commission (FMC) and the Nuclear Regulatory Commission (NRC), and prepares an appeal position for the United States; and prepares and files *amicus* briefs in the district courts, the courts of appeals and the Supreme Court in selected private antitrust cases.

The Division's responsibility for appeals from decisions by district courts in antitrust cases and for participation as *amicus curiae* is defined by 28 C.F.R. § 0.20 and 28 C.F.R. § 0.40(a). Authority to represent the Interstate Commerce Commission, Federal Communications Commission, Federal Maritime Commission and the Nuclear Regulatory Commission in proceedings to review orders is contained in 28 U.S.C. §§ 2341-2350.

#### Accomplishments and Workload:

Item	1983	1984	1985	Estimates 1986
<b>Administrative Law Cases</b>				
Pending.....	469	520	485	485
Filed.....	324	319	220	220
Terminated.....	273	354	220	220
<b>Antitrust Amicus Cases</b>				
Filed.....	15	12	10	10
Terminated.....	6	17	10	10
<b>Antitrust Division Cases In Courts of Appeals</b>				
Won.....	20	9	12	12
Lost.....	3	5	---	---
Dismissed.....	---	---	---	---
<b>Antitrust Division Cases In Supreme Court</b>				
Won.....	2	2	1	1
Lost.....	1	---	---	---
Dismissed.....	---	---	---	---

CAB and ICC workload has decreased due to deregulation.

Since October 1, 1983, the Division has filed nine *amicus* briefs in the Supreme Court in cases involving important questions of antitrust policy. Six of the filings were at the request of the Court, and in four cases, *State of California v. Standard Oil of California*, No. 82-1938; *American Telephone and Telegraph Company v. Litton Systems, Inc.*, No. 82-2128; *Foremost Pro Color, Inc. v. Eastman Kodak Company*, No. 82-1876; and *Lewis Service Center, Inc. v. Pack Trucks, Inc.*, No. 83-1273, the Court ultimately acted in a manner consistent with the Division's suggestion by denying certiorari. In the other two cases in which briefs were filed at the Court's request, the Division recommended against certiorari but the Court ultimately decided to grant both petitions. Those cases were *Northwest Wholesale Stationers, Inc. v. Pacific Stationery and Printing Co.*, No. 83-1368, and *Mitsubishi Motors Corporation v. Soler Chrysler-Plymouth, Inc.*, Nos. 83-1569, 83-1733. In the remaining three filings, *Charles R. Hoover v. Edward Ronkein*, No. 82-1474; *National Collegiate Athletic Association v. Board of Regents of the University of Oklahoma, et al.*, No. 83-271 (NCAA); and *Town of Hallie v. City of Eau Claire*, No. 82-1832, the Division volunteered *amicus* briefs discussing important antitrust policy



Cir.) (appeal from injunction barring sports events). As part of its expanded amicus program, the Division has continued to review pending antitrust cases in the courts of appeals for possible amicus participation. Its position prevailed in three recent decisions: *Wash Tire Company, Inc. v. Hoosier Racing Tire Corporation*, et al., No. 83-1379 (1st Cir.) (decisions by race tracks to select a sole tire supplier for races did not violate the Sherman Act); *Donald W. Kreuzer, D.M.D. v. American Academy of Periodontology*, et al., No. 83-1394 (D.C. Cir.) (membership requirement of professional organization not unlawful per se but further inquiry required under the rule of reason to determine economic impact of requirement); and *State of North Carolina v. P.I.A. Asheville, Inc.*, No. 82-1058 (4th Cir., en banc) (action challenging acquisition of psychiatric hospital not precluded by the state action doctrine or the National Health Planning and Resources Development Act of 1974). The Division has also filed amicus briefs in cases that have not yet been decided: *Mazda Distributors (Guil.) Inc. et al. v. Ford Motors Inc.*, et al., No. 83-2125 (10th Cir.) and *In Re Wheat Ball Freight Rate Antitrust Litigation*, Nos. 84-1505, 84-1449, 84-1383 (7th Cir.). For example, the Mazda case involved a program by which Mazda allocated a popular high performance sports car to its dealers based on the number of Mazda sales made by each dealer during the preceding three month period. The Division argued that the district court had erred in characterizing the Mazda allocation scheme as a per se unlawful tie-in arrangement.

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease				
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.			
Termination and prevention of private cartel behavior.....	222	202	\$15,105	222	202	\$15,216	222	202	\$15,216	---	---

Long-Range Goal: To promote and maintain competition in the American economy by reducing private cartel behavior which restrains trade or commerce.

#### Major Objectives:

- To promote and maintain competition, economic efficiency, and the enhancement of consumer welfare by using criminal and civil enforcement of Section 1 of the Sherman Act to terminate and prevent agreements that restrain competition.
- To limit cartel behavior in industries subject to state or federal regulation to appropriately approved conduct where such approval has been authorized by statute; to prevent the continuation of cartel behavior once statutes authorizing the approval of such behavior have been repealed.
- To educate the public, business, and legal professions with respect to the principles of antitrust laws and enforcement policies.
- To maximize competition among those bidding under the government procurement program by coordination with and advice to other executive agencies on their property acquisition policies.
- To operate a system for monitoring compliance with the affirmative obligations imposed on defendants by antitrust judgments.
- To identify decrees or decree provisions that have become unnecessary or anticompetitive over time and seek modification or termination by court action.

**Base Program Description:** The purpose of this program is to deter private cartel-like behavior by investigating and litigating violations of Section 1 of the Sherman Act. A wide range of investigatory techniques are used, including staff and FBI investigations, civil investigative demands, and grand jury investigations to detect collusion and bid rigging. In addition, the Division monitors private activity and market performance through its litigating sections and field offices and employs professional economists to collect and analyze regional and national market data, with special emphasis on highly concentrated industries. Once the government detects and successfully prosecutes, it must obtain appropriate relief and monitor the injunctive provisions of such relief to ensure that firms are abiding by those provisions. The Division's responsibility for this program is set forth in 28 C.F.R. §0.46(a).

The Division's vigorous prosecution of private horizontal restraints is essential. Cartel-type behavior has no redeeming economic virtues. Agreements among competitors entered into for the purpose of artificially restricting output and raising prices do not yield organizational efficiencies or economies of scale. Such agreements increase transaction costs and are dealt with severely. State and local law enforcement efforts, while contributing to the prevention of locally-oriented cartel behavior, cannot cope with the complex interstate nature of the conspiracies investigated and prosecuted by the Division. Intense nationwide enforcement of the federal antitrust laws serves to prevent the serious drain on the nation's economy that cartel behavior causes.

Accomplishments and Workload:

Item	Estimates		
	1983	1984	1985
<b>Business Reviews</b>			
Issued.....	26	20	24
Granted.....	22	18	---
Denied.....	---	1	---
Declined.....	4	1	---
<b>Preliminary Inquiries</b>			
Pending at start of year.....	331	258	268
Opened during the year.....	216	192	200
Closed during the year.....	289	182	200
<b>Civil Investigative Demands</b>			
Pending at start of year.....	40	24	36
Opened during the year.....	11	22	15
Closed during the year.....	27	11	14
<b>Grand Juries</b>			
Pending at start of year.....	82	99	129
Opened during the year.....	48	48	50
Closed during the year.....	31	28	40
<b>Price Fixing Cases - Civil</b>			
Pending at start of year.....	19	14	13
Opened during the year.....	5	7	8
Closed during the year.....	10	8	6
<b>Price Fixing Cases - Criminal</b>			
Pending at start of year.....	41	44	63
Opened during the year.....	92	96	90
Closed during the year.....	89	77	80
<b>Judgment Enforcement</b>			
Divestitures.....	7	5	2
Compliance Reports.....	188	206	100
Judgment Modifications/Terminations.....	39	9	5
Contempt Cases.....	1	---	---

NOTE: Since it is often unclear during the early stages of an investigation the exact nature of the violation, Preliminary Inquiries and Civil Investigative Demands are consolidated for Termination and Prevention of Private Cartel Behavior and Preservation of Competitive Market Structure. Judgment Enforcement was a separate program prior to 1985; workload from prior years is consolidated for Termination and Prevention of Private Cartel Behavior and Preservation of Competitive Market Structure.

The Division's efforts in this program during the past year have been highly successful. Investigations and prosecutions have revealed widespread efforts to corrupt and subvert the competitive bidding process in the United States, involving major national industries and affecting billions of dollars in commerce. A large number of cases have been prosecuted, involving many corporations and individuals. From December 14, 1979, when the Division began its current series of highway construction bid rigging prosecutions, through January 1, 1985, the Division has initiated 300 criminal prosecutions against 285 corporate defendants and 275 individual defendants in connection with conspiracies to rig bids on public highway and airport construction projects in 21 states. Felony prosecutions in Arkansas, Colorado, Delaware, Florida, Georgia, Iowa, Kansas, Kentucky, Maryland, Mississippi, Nebraska, New Jersey, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, and Virginia have charged violations of Section 1 of the Sherman Act, mail fraud, false declarations made before a grand jury, false statements submitted to a state department of transportation, obstruction of justice, and aiding and abetting. Two hundred forty of these cases, involving 207 corporations and 203 individuals, have been resolved through guilty pleas. Four cases, involving a total of three corporations and five individuals, are awaiting trial. In the 47 cases that have gone to trial, 26 corporations and 29 individuals were convicted, and 19 corporations and 24 individuals were acquitted. The courts have accepted, over the government's objection, *nolo contendere* pleas from 15 corporations and nine individuals. Fines totaling approximately \$59.7 million and aggregate jail sentences in excess of 83 years of actual incarceration have been imposed in these cases through January 1, 1985.

State highway construction contracts are let for competitive bidding several times each year. Most state laws provide that a construction contract is to be awarded to the lowest bidder, following the opening of sealed bids. In cases in this area, it usually appears that the contractors agreed upon the low bidder prior to the contract letting. The prearranged low bidder would then win the job because the other contractors submitted intentionally high bids, often in the expectation of similar arrangements on other jobs. Sometimes payments are made in return for the high bids. In this way, the contractors avoid competition and significantly raise the price of the construction projects, many of which are federally funded in accordance with the Federal-Aid Highway Act, 23 U.S.C. §§101 et seq.

For the period October 1, 1983, through September 30, 1984, the Division initiated 48 criminal prosecutions involving 61 corporate defendants and 31 individual defendants in connection with conspiracies to rig bids on public highway and airport construction projects in twelve states. Twenty-one cases have been resolved in which 23 corporations and 11 individuals pleaded guilty. Six cases, involving seven corporations and eight individuals, are awaiting trial. Five cases have been completed through trials in which the juries convicted six corporations and two individuals. Fourteen cases, involving 13 corporations and ten individuals, await sentencing. Thirty-five of the defendants involved in the 48 cases have been fined over \$4 million, and seven individuals have served an average of 94 days in jail. In addition, during this period, 13 defendants from prior cases were fined a total of \$2.2 million, and seven individuals were sentenced to serve an average of 77 days in jail. Currently the Division is using 26 grand juries empaneled in 22 states to investigate possible bid rigging conspiracies in this industry.

From May 11, 1982, through January 1, 1985, the Division initiated 18 criminal prosecutions against 14 corporations and 19 individuals in connection with conspiracies to rig bids on utility construction projects in Alabama, North Carolina, South Carolina and Tennessee. These felony prosecutions charged violations of Section 1 of the Sherman Act, mail fraud and false statements involving construction on utility projects for work performed on water and wastewater facilities and distribution lines. The alleged illegal activities of the defendants and co-conspirators consisted of allocating among themselves utility construction projects by submitting collusive, noncompetitive and rigged bids, or withholding bids; designating the successful low bidder; submitting intentionally high or complementary bids; and submitting bid proposals and affidavits containing fraudulent statements and entries. Fourteen cases have been resolved in which nine corporations and 13 individuals pleaded guilty. One case, involving one corporation and one individual, awaits trial. Three cases have gone to trial in which three companies and three individuals were convicted and one company and two individuals were acquitted. Eighteen of the defendants were fined a total of \$1.3 million, and 14 individuals have served an average of four months in jail. For the period October 1, 1983, through September 30, 1984, the Division initiated eight criminal prosecutions involving seven corporate defendants and eight individual defendants charging bid rigging, mail fraud and false statements violations on utility construction projects in four states. Five cases, involving three corporations and three individuals, have been resolved through guilty pleas. Two cases resulted in trials in which two companies

and two individuals were convicted and one company and two individuals were acquitted. Eight defendants were fined a total of \$680,000, and five individuals have served an average of four months in jail. In addition, during this period, two defendants from prior cases were fined a total of \$75,000, and one individual was sentenced to serve 90 days in jail. Currently the Division is using 17 grand juries empaneled in ten states to investigate possible utility bid rigging conspiracies.

The electrical construction industry is currently one of the focal points of the Division's major criminal investigations. It is anticipated that these investigations will expand during the next year and will require a substantial increase in staff resources. From May 11, 1983, through January 1, 1985, the Antitrust Division initiated 34 criminal prosecutions against 46 corporations and 44 individuals in connection with conspiracies to rig bids on various electrical construction projects in the states of Indiana, Kentucky, North Carolina, Ohio, Pennsylvania, and Washington. Twenty-two cases, involving 21 corporations and 18 individuals, have been resolved through guilty pleas. Trials in four cases resulted in guilty verdicts against four corporations and six individuals; acquittals of five corporations and seven individuals; and a mistrial was declared against one individual. Five companies and two individuals pleaded *nolo contendere*. Eight cases, involving ten corporations and ten individuals, await trial. Fines totaling \$9 million and 42 months aggregate incarceration have been imposed in these cases.

For the period October 1, 1983, through September 30, 1984, the Division initiated 20 criminal prosecutions involving 22 companies and 18 individuals in connection with conspiracies to rig bids on electrical construction projects in Indiana, Kentucky, North Carolina, Ohio and Pennsylvania. Fourteen cases, involving 12 corporations and ten individuals, have been resolved through guilty pleas. One case, involving one corporation and one individual, was resolved through plea of *nolo contendere*. Four cases, involving eight companies and six individuals, are scheduled for trial. Twenty-one defendants have been fined over \$1 million and seven individuals have been sentenced to serve an average of 107 days in jail. In addition, during this period, seven defendants from prior cases were fined a total of \$3.8 million, and one individual was sentenced to serve 150 days in jail. The Division is continuing these investigations with 16 grand juries impaneled in 11 states.

In U.S. v. Fischbach and Moore, Inc., et al., a grand jury in Pittsburgh, Pennsylvania, returned a one-count indictment charging six companies and five individuals with a violation of Section 1 of the Sherman Act. In late 1983, one of the defendants pleaded guilty to the indictment and agreed to pay a \$1 million fine pursuant to a plea agreement. On February 1, 1984, four defendants attempted to change their pleas to *nolo contendere*. The court accepted one and rejected the others. On February 6, 1984, the nine remaining defendants stood trial. The court granted two defendants' motions for judgment of acquittal. On March 7, 1984, the jury returned guilty verdicts against the remaining seven defendants. Fines for the defendants found guilty after trial totaled \$3,160,000, and three individuals were sentenced to 90 days each in jail.

Under this program, the Division is increasing its number of investigations into more consumer-oriented markets. A representative selection of cases includes the following:

U.S. v. Steamship Trade Association of Baltimore, Inc., et al.; U.S. v. Association of Ship Brokers and Agents (U.S.A.) Inc., et al.; U.S. v. Baltimore Harbor Association, et al.; U.S. v. Philadelphia Marine Trade Association, et al.; and U.S. v. West Gulf Maritime Association, Houston, et al.

In May 1984, four civil antitrust suits were filed by the Division in the District of Maryland charging 17 corporations with violations of Section 1 of the Sherman Act in connection with the provision of port agent services to tramp vessels. The alleged violations occurred in the ports of Baltimore, New York and Philadelphia and in the West Gulf port range which is composed of the port areas along the Gulf of Mexico on the Texas coast and the port of Lake Charles, Louisiana.

Port agent services are performed for the owner or charterer of a cargo ship and include supervising the loading and unloading of cargo; arranging for berths, pilots and tugs; securing necessary documentation; outfitting and repairing the ship, and attending to the needs of the crew. Tramp vessels are cargo ships that do not follow a regular schedule of port calls. Each complaint alleged that the defendants engaged in a combination and conspiracy to raise, fix and maintain the prices of port agent services beginning at least as early as 1976 and continuing until at least 1981. The complaints further alleged that the defendants agreed on, prepared, revised, published, disseminated and used schedules of fees for port agent services provided to tramp vessels.

Consent decrees were filed simultaneously with the complaints which will enjoin the defendants from repeating their unlawful conduct and will impose certain affirmative obligations on the defendants, such as requiring them to establish written policies ensuring compliance with the antitrust laws and the final judgments to which they are a party. Each defendant association will also be ordered to convene at least four meetings where their memberships will receive an explanation of the prohibitions of Section 1 of the Sherman Act and the final judgments. The proposed consent decrees became final on November 18, 1984.

U.S. v. Waldbaum, Inc., et al. and U.S. v. Waldbaum, Inc. and Supermarkets General Corporation

On June 6, 1984, a federal grand jury returned two indictments charging four supermarket chains with price fixing through the elimination of triple and/or double value coupons on grocery products and meat items in Nassau and Suffolk Counties, New York. In violation of Section 1 of the Sherman Act. Triple coupons are the offer by supermarkets and supermarket chains to triple the value of manufacturers' cents-off coupons; double coupons are the offer to double the value of such coupons. During 1981, the total value of double coupons given by the defendants in Nassau and Suffolk Counties was approximately \$9.1 million. The defendants pled guilty to the offenses and were fined a total of \$830,000.

U.S. v. Continental Fuel Company, Inc., et al.

Four corporations and eight individuals were charged with conspiring to fix the retail prices of gasoline in Bannock County, Idaho, from January 1978 through October 1982, in violation of Section 1 of the Sherman Act. Three corporations and two individuals pled guilty to the offenses and were voluntarily dismissed. On March 9, 1984, one corporation and three individuals were convicted after trial and one individual was acquitted. Fines totaled \$395,000.

U.S. v. Association of Engineering Geologists

On May 22, 1984, the Division filed a proposed consent decree that would terminate a civil antitrust suit against the Association of Engineering Geologists. The Association is a nationwide organization of approximately 2,700 members engaged in various aspects of civil engineering that involve the study of rock and soil formations or subsurface fluids. The suit, filed January 24, 1984, alleged that the Association adopted and adhered to a code of ethics which unreasonably restricted commercial advertising, price competition and solicitation in the sale of engineering geology services. The complaint further alleged that the defendant and co-conspirators entered into an unlawful agreement to adopt a code of ethics which requires members to charge only those fees which are customary in their respective areas and which prohibits commercial advertising, competitive price proposals, and solicitation of engineering geology engagements. The proposed consent decree requires the Association to cancel all formal and informal rules and ethical codes of conduct that restrict commercial advertising, price competition or solicitation. The Association would also be required by the consent decree to notify its members and purchasers that such forms of competition are permissible.

U.S. v. Alaska Board of Registration for Architects, Engineers, and Land Surveyors

On November 18, 1983, the Division filed a proposed consent decree that will terminate its civil antitrust suit against the Alaska Board of Registration for Architects, Engineers, and Land Surveyors. The suit alleged that the Board violated Section 1 of the Sherman Act by adopting a code of ethics provision which prohibits architects, engineers, and land surveyors licensed to practice in Alaska, from engaging in competitive bidding. The proposed decree will enjoin the Board from adopting, or furthering any agreement, or course of action which would suppress Alaska architects, engineers, and land surveyors from submitting competitive bids. The Board is also required to delete the competitive bidding ban from its code of ethics and to notify licensed practitioners, purchasers of architectural, engineering, and land surveying services, and the general public in Alaska of the rule change. The proposed consent decree became final upon court approval on May 17, 1984.

U.S. v. First Multiple Listing Service

On November 16, 1983, the Division filed a proposed consent decree that will terminate its civil suit against First Multiple Listing Service (FMLS), a residential real estate multiple listing service in Atlanta, Georgia. The suit alleged that the defendant and other persons conspired to restrict membership in FMLS and thus restrict competition among real estate brokers in a 19-county Atlanta area. The proposed decree will require FMLS to admit to membership all licensed real estate brokers who meet certain specified requirements, and to charge all users, whether stockholders or not, reasonable and non-discriminatory fees reflecting the reasonable expenses of operations. The proposed decree will also require FMLS to sell a share of stock to any person who elects to purchase a share of stock at a price specified in the decree. The proposed consent decree became final upon court approval on April 26, 1984.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	Pos.	NY	Perm.	Pos.	NY	Perm.	Pos.	NY	Perm.	Pos.	NY
Anticipated												
Amount												
Preservation of competitive market structure.....	164	161	\$15,385	164	161	\$15,586	164	161	\$15,586	---	---	---

**Long-Range Goal:** To enhance the ability of markets to function efficiently by preventing mergers and acquisitions that may lessen competition and by preventing and dissipating monopoly power acquired or maintained by purposeful conduct inconsistent with competition on the merits.

Major Objectives:

To implement a coherent merger enforcement program which prevents mergers that threaten to reduce competition in specific markets while minimizing governmental interference with transactions having no significant potential for harm.

To enforce effectively the premerger notification requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and propose changes where requirements are too burdensome and could be relaxed with no loss to the efficacy of the Division's merger screening program.

To utilize fully the expanded statutory authority provided the Division in the Antitrust Procedural Improvements Act of 1980.

To develop and carry out managerial and procedural reforms that will allow complex cases to be brought to conclusion more expeditiously.

To operate a system for monitoring compliance with the affirmative obligations imposed on defendants by antitrust judgments.

To identify decrees or decree provisions that have become unnecessary or anticompetitive over time and seek modification or termination by court action.

**Base Program Description:** The primary purpose of this program is to prevent or dissipate unlawfully acquired or maintained monopoly power, and to enjoin mergers that may lessen competition. Economists are in general agreement that the potential economic benefits of preventing monopolization of, and undue concentration in, particular markets are substantial. The Division promotes and maintains the competitive structure of the national economy through investigation and litigation of instances in which monopoly power is sought, attained, or maintained through noncompetitive conduct and by seeking injunctive relief against mergers and

acquisitions that may tend to eliminate competition. The principal statutes enforced under this program are Section 2 of the Sherman Act and Section 7 of the Clayton Act. The Division's responsibility for this enforcement program is found in 28 C.F.R. §0.40(a).

To realize maximum benefits from the Division's civil enforcement efforts, antitrust litigation resolved in favor of the government must be given full effect through appropriate injunctive relief, and firms subject to antitrust judgments must be monitored to assure that injunctive provisions are met. The enforcement program is authorized by 28 C.F.R. §0.40(a). The Division has also established a program to review existing decrees and to seek the elimination of those that have become anticompetitive or that otherwise no longer serve the public interest.

#### Accomplishments and Workload:

Item	Estimates	
	1984	1985
Premarmer Notifications.....	1,101	1,200
Preliminary Inquiries		
Pending at start of year.....	331	268
Opened during the year.....	192	200
Closed during the year.....	182	200
Civil Investigative Demands		
Pending at start of year.....	40	35
Opened during the year.....	11	16
Closed during the year.....	27	14
Oligopoly and Monopoly Cases		
Pending at start of year.....	6	5
Opened during the year.....	1	2
Closed during the year.....	2	3
Merger Cases		
Pending at start of year.....	9	9
Opened during the year.....	4	5
Closed during the year.....	5	8
Judgment Enforcement		
Divestitures.....	7	2
Compliance Reports.....	188	100
Judgment Modifications/Terminations.....	39	5
Contempt Cases.....	1	---

NOTE: Since it is often unclear during the early stages of an investigation the exact nature of the violation, Preliminary Inquiries and Civil Investigative Demands are consolidated for Termination and Prevention of Private Cartel Behavior and Preservation of Competitive Market Structure. Judgment Enforcement was a separate program prior to 1985; workload from prior years is consolidated for Termination and Prevention of Private Cartel Behavior and Preservation of Competitive Market Structure.



Between October 1, 1983, and September 30, 1984, the Division reviewed 1,339 reports of mergers and acquisitions filed under the Hart-Scott-Rodino Act. It has investigated 79 of those matters to determine whether they would likely lead to any lessening of competition in the affected markets. In 38 of these, second requests were issued to the firms for more information about the transaction's competitive effects.

In June 1983, the Newhouse newspaper group, publisher of the St. Louis Globe-Democrat, and Pulitzer Publishing Company, publisher of the St. Louis Post-Dispatch, informed the Division that they planned to discontinue publication of the St. Louis Globe-Democrat and to continue jointly to publish and share profits from the Post-Dispatch pursuant to an amended joint operating agreement. The Division informed the publisher of the Globe-Democrat that it would have to make an effort to sell the newspaper to someone prepared to continue its publication. On November 8, 1983, the Division announced its position and invited interested buyers to contact the Division. Subsequently a prospective buyer negotiated the purchase of the newspaper. The Globe-Democrat will continue to operate as a daily newspaper and will reintroduce commercial competition among daily papers in St. Louis.

#### U.S. v. LTV and Republic Steel

On February 15, 1984, the Division announced that it would oppose the merger of the third and fifth largest domestic steel companies because of resulting unacceptably high increases in concentration in the markets for carbon and alloy hot and cold rolled sheet steel and in cold rolled stainless steel. On March 21, 1984, the Division filed a complaint challenging the acquisition under Section 7 of the Clayton Act, accompanied by a consent decree ordering the divestiture of two steel plants. The consent decree is designed to preserve competition in the affected steel markets while at the same time permitting the otherwise unobjectionable merger. The proposed consent decree became final upon court approval on August 2, 1984.

#### U.S. v. Beverly Enterprises, Inc., et al.

On February 28, 1984, the Division filed a proposed consent decree that will end its civil antitrust suit challenging the proposed acquisition of Southern Medical Services, Inc. (SMS) of Birmingham, Alabama, by Beverly Enterprises of Pasadena, California, the largest chain of nursing homes in the country. The decree provides for the future sale of eight nursing homes in Alabama and Georgia. The suit, filed on January 18, 1984, alleged that the acquisition would violate Section 7 of the Clayton Act by substantially lessening competition among nursing homes in and around the cities of Macon, Georgia, Augusta, Georgia, Montgomery, Alabama, and Mobile, Alabama.

Beverly operates over 780 nursing homes in 42 states and the District of Columbia. Beverly had revenues of about \$816 million in 1982. SMS is the seventeenth largest provider of nursing home care in the United States. It operates 49 nursing homes in six states. SMS had revenues exceeding \$30 million in 1982. The suit alleged that, if Beverly acquired SMS, Beverly would control 29 percent of the licensed nursing bed capacity in the Macon area, and 36 percent in the Mobile area.

The decree provides that, in the event of termination, delay or default under a purchase agreement, Beverly must notify the Division and the court, and the court will determine the manner and timing of the divestiture required by the decree. Beverly will also be required to notify the Division before buying any other nursing home in specified areas in Alabama and Georgia. Further, Beverly is not permitted to acquire any ownership or control of the entity which obtains ownership or control of any of the eight nursing homes involved. The proposed consent decree became final upon court approval on June 7, 1984.

#### U.S. v. National Bank and Trust of Norwich and National Bank of Oxford

On March 7, 1984, the Division filed a proposed consent decree that will settle a lawsuit filed May 6, 1983, opposing the merger of the National Bank and Trust Company of Norwich and the National Bank of Oxford in New York. The complaint alleged that the proposed merger might substantially lessen competition in both retail and commercial banking services, in violation of Section 7 of the Clayton Act. The Norwich bank is the largest commercial bank in the Norwich area, with approximately 56 percent of total deposits

held by depository institutions in the area. The Oxford bank ranks sixth with approximately six percent of total deposits in the Norwich area. The proposed consent decree would require the Norwich bank to sell two of its three offices in Norwich. Once the Norwich bank enters into contracts to sell its two branches, the proposed consent decree would permit the acquisition of the Oxford bank. The Oxford bank would be accounted for separately by the Norwich bank until the required divestitures are completed. The Norwich bank would also be required by the decree to take the necessary steps to remove home office protection from the city of Norwich, thus opening Norwich to entry by new competitors. Under New York banking laws, outside banks are barred from locating branches in cities with populations under 50,000 if another bank has its home office there. Norwich has a population of less than 50,000 and the bank would remove the protection by moving its home office to another location. The proposed consent decree became final upon court approval on June 12, 1984.

#### U.S. v. Western Electric (AT&T)

During 1984, the Division continued its ongoing supervision of the AT&T reorganization required by the consent Modification of Final Judgment in U.S. v. Western Electric entered by the District Court in August 1982. The major milestone achieved by the decree was the January 1, 1984, divestiture of AT&T's local telephone operations and their reorganization into seven regional holding companies. Prior to that date, the Division reviewed the voluminous contracts necessary to effectuate divestiture to ensure their conformity with the requirements of the decree and the Court approved Bell System Plan of Reorganization.

Subsequent to divestiture, the Division participated in several Court proceedings regarding transitional waivers of the decree's requirements in light of technical limitations on network reconfiguration and regulatory delays in the approval of access tariffs. Additionally, the Division filed comments with the Court regarding efforts by the divested regions to enter new lines of business by means of waiver procedures established by the decree. On July 26, 1984, the Court largely adopted the Division's contentions regarding the potential anticompetitive effects of operating company entry into competitive businesses and stated the belief that the primary obligation of the operating companies is to provide high quality local telephone service to the public. On December 14, 1984, the Court, adopting the Division's recommendations, granted 13 waivers permitting six regions to enter new lines of business. Also, pursuant to the decree, on July 1, 1984, each operating company filed compliance plans with the Division regarding non-discriminatory treatment of AT&T's competitors, including the provision of equal access to other intercity carriers. The Division is conducting an ongoing review of these plans as well as of the equal access process itself. The Division will take appropriate actions to ensure compliance with the decree's requirements in these and other areas.

#### U.S. v. Rice Growers Association of California, et al.

The Division filed suit to enjoin the acquisition of Pacific International Rice Mills, Inc. by Rice Growers Association of California on August 17, 1984. Had it gone unchallenged, the merger would have greatly lessened competition in the purchase of unmilled rice from California rice farmers, and the sale of certain categories of rice in the Western states. The lawsuit thus seeks to ensure that rice farmers receive a competitive price for their rice, and that rice consumers continue to enjoy the benefits of competition among rice millers.

#### U.S. v. Alcan Aluminum Limited, et al.

On October 5, 1984, the Division sued to enjoin a proposed acquisition by Alcan Aluminum Company of aluminum-producing assets from Arco. One of the assets to be sold was a large, state-of-the-art plant designed to produce aluminum for beverage cans, called "can stock." The proposed sale would have significantly increased concentration in the production and sale of can stock. The Division reached a settlement with the defendants whereby the defendants agreed to operate the plant as a joint venture, with Arco owning a majority share. The settlement requires, however, that Alcan and Arco sell their shares of the plant's production independently of each other. The arrangement gave Alcan additional capacity to produce can stock, and allowed Alcan's expertise to be used in operating the plant, while preserving Arco (or its successor) as a strong, independent competitor.



Division economists provide early economic evaluation of proposed mergers and acquisitions, thus enabling a more informed judgment as to the desirability of the use of limited resources to conduct investigations. The refined internal screening process enabled the Division to quickly identify 245 of the Hart-Scott-Rodino premerger notification filings in 1983 as mergers that would not present competitive problems. There were 406 such filings in 1984. For mergers that may present competitive concern, premerger data bases from the Economic Information System (EIS) and COMPUSTAT, a financial data base from Standard and Poor's, are provided to assist economists in making initial assessments of mergers. The data sources are under continuous review, and new data sources are regularly being evaluated.

In connection with the Division's task force on improvements in criminal antitrust enforcement, the Division has developed price fixing models designed to improve complaint investigation and case development. These techniques, used in screening for highway price fixing, have formed the foundation for a study which explores the historical bidding record that would be generated by a sophisticated bid rigging cartel.

The hypotheses generated in the model have been tested on a sample of North Carolina highway bids in which conspiracy generated bids could be identified. In the initial tests, the model worked in identifying conspiracy in highway bids, and its application to an expanded data set may generate many undiscovered highway bid rigging conspiracies. The underlying principles may be applied to other bidding applications, such as electric utilities, where the federal government is a participant.

The Division's legislative program involves the preparation and presentation of legislative proposals to amend, enact or appeal the antitrust laws and other statutes having competitive implications. The analysis of proposed legislation, of reports and testimony of other agencies, and the submission of views on such materials to other Divisions, the Office of Management and Budget (OMB) and Congress, are part of the program. The Division drafts responses to inquiries received from Congress or forwarded by the White House. The Division has been instrumental in securing passage of that part of the Administration's National Productivity Research Act of 1984 that deals with research and development joint ventures, and has worked extensively with Congress on legislation to afford municipalities limited antitrust immunity. The Division has worked extensively with OMB to develop an Administration position and draft legislation that would deregulate large segments of the oil pipeline industry in the lower 48 states. The Division also worked with the Department of Energy to develop an Administration position concerning appropriate responses to anticipated or actual domestic energy emergencies. Other current legislative projects include interlocking directorates, municipal immunity, omnibus crime control legislation, mail beverage exclusive territories, interstate and intrastate trucking, special restrictions on mergers in the petroleum industry, television syndication, the effect of antitrust enforcement on small business, valuation of coal leases, ocean shipping, financial institutions deregulation, and congressional requests for information on insurance. In all of these projects, the goals have been to articulate policies that deter cartel behavior or eliminate unnecessary regulation, and encourage procompetitive conduct, particularly that which may have been deterred in the past.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Anticipated			Perm.			Perm.			Perm.	
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY
Competition advocacy program.....	59	59	\$2,714	59	59	\$2,717	59	59	\$2,717	---	---

Long-Range Goal: To eliminate unnecessary or counterproductive governmental interference with free market forces and seek adoption of the least anticompetitive means of achieving overriding social purposes.

#### Major Objectives:

To achieve greater competition in federally regulated industries.

To protect and promote competition in industries which have recently been deregulated.

To minimize the prohibitions against and restrictions of competition under State regulation.

To stimulate competition in the delivery of professional services.

To reduce or eliminate antitrust immunities enjoyed by particular industries.

To encourage competition as new technologies are developed.

**Base Program Description:** As an advocate of competition, the Antitrust Division seeks the elimination of unnecessary regulation and adoption of the least anticompetitive means of achieving a sound national economy through participation in proceedings before regulatory agencies and in executive branch deliberations relating to competition policy. Authority for these various activities is found in 28 C.F.R. 40.40; the Federal Coal Leasing Amendments Act of 1976; the Deepwater Port Act of 1974, 33 U.S.C. §1806(a); the Atomic Energy Act of 1954, 42 U.S.C. §2135; the Federal Aviation Act, 49 U.S.C. §§1375-84; the 1966 Bank Merger Act, 12 U.S.C. §1828; the Outer Continental Shelf Lands Act, 43 U.S.C. §1331, et seq.; and the Interstate Commerce Act §11343-11348.

#### Accomplishments and Workload:

Item	Estimates			
	1983	1984	1985	1986
PARTICIPATION IN BANK MERGER PROCEEDINGS				
Total Screenings.....	1,721	1,855	1,900	1,900
Savings and Loan Letters.....	16	6	10	10
Bank Holding Letters.....	3	3	5	5
Merger Letters.....	839	909	910	910
PARTICIPATION IN REGULATORY AGENCY PROCEEDINGS				
Civil Aeronautics Board (CAB).....	6	4	---	---
Federal Communications Commission (FCC).....	26	17	---	---
Federal Deposit Insurance Corporation (FDIC).....	2	2	---	---
Federal Energy Regulatory Commission (FERC).....	1	---	---	---
Federal Home Loan Bank Board (FHLBB).....	2	1	---	---
Federal Maritime Commission (FMC).....	1	3	---	---
Federal Reserve Board (FRB).....	1	1	---	---
International Trade Commission (ITC).....	2	---	---	---
Interstate Commerce Commission (ICC).....	16	23	---	---
Postal Rate Commission (PRC).....	1	5	---	---
Securities and Exchange Commission (SEC).....	6	4	---	---
Other 1/.....	10	4	---	---
Total.....	73	64	65	65

NOTE: The Division cannot estimate by particular regulatory agency where intervention will prove fruitful during 1985 and 1986. Figures by agency are actual for 1983 and 1984.

1/ Other includes case filings with the Department of Transportation, Commodity Futures Trading Commission, the Bureau of Alcohol, Tobacco and Firearms, and the Postal Service Governors.

A representative selection of significant matters in which the Division has been recently involved to enhance competition follows:

In March 1984, the Division supported a proposal by the Federal Communications Commission to grant blanket authority to telephone common carriers seeking to provide cable television or other non-common carrier services outside the carriers' telephone service area. The Division agreed with the Commission's conclusion that the existing application process created unnecessary costs and delays for the applicants and for the Commission. The Division concluded that the benefits of the application process for this class of activities did not justify the costs. The Division supports any move toward deregulation by the Commission that preserves the Commission's ability to carry out effectively its responsibility to serve the public interest.

On April 2, 1984, the Division filed comments with the FCC supporting an orderly transition toward deregulation of interexchange services of the American Telephone and Telegraph Company (AT&T) from 1984 to 1990. The divestiture of the Bell Operating Companies dramatically reduces AT&T's ability to engage in such anticompetitive conduct as cross-subsidization or unjustified price increases. Consequently, the need for regulation of AT&T's rates and facilities is reduced. While the Division supports deregulation, it urged the FCC to proceed with caution, stating that several factors suggest AT&T may still have the ability to behave anticompetitively. These include AT&T's large market share, limited ability of AT&T competitors to expand their capacity in response to an AT&T price change, and the competitors' current inferior interconnection at the local exchanges. The Division also urged that present procedures be streamlined by shortening notice periods and reducing the material AT&T is required to file in connection with rate and facilities authorization applications. The alternative of establishing AT&T's current rates as a ceiling not to be exceeded was suggested to the FCC. The Division stated that the competition in the market for interexchange services has increased with the Bell divestiture, calling for modernized regulation of AT&T. However, the FCC was strongly urged to keep in mind, and account for, the competitive risks involved.

On July 6, 1984, in comments filed with the FCC, the Division supported reconsideration of a Commission decision establishing for AT&T Communications, Inc., a "Block-of-Time Optional Calling Plan" for long distance MTS service which would charge callers at a flat rate for each hour of calling during the night/weekend rate period. The Division argued that the tariffs were below AT&T's actual cost of providing MTS service and undermined the FCC policy of cost-based regulation of AT&T.

In an unrelated proceeding on August 10, 1984, the Division filed comments with the FCC urging the denial of AT&T's petition to lift the separate subsidiary requirement imposed on AT&T by the Commission's Computer II decision. The decision requires that AT&T offer long distance services through a subsidiary separate from its competitive service and product lines. The Division stated in comments filed August 8, 1984, that structural separation is designed to prevent rate-regulated firms possessing market power from cross-subsidizing unregulated businesses with revenues from regulated businesses and from discriminating against their competitors. The Division also stated that lifting the separate subsidiary requirement should not take place until the Commission determines whether AT&T continues to have market power, and what form future regulation of AT&T will take.

On March 8, 1984, the Division filed comments with the Federal Deposit Insurance Corporation (FDIC) and the Federal Home Loan Bank Board (FHLBB) opposing the adoption of a proposed regulation limiting federal deposit insurance on deposits placed in insured depository institutions by or through a broker. Deposits placed in insured institutions through a broker are currently insured up to \$100,000 for each individual the broker represents. The brokering of individuals' deposits, having developed only in the past few years, has already drawn several billion dollars to depository institutions from other sources. Depository institutions ranging from small to very large are able to attract such funds through brokers. The market for brokered deposits from individuals is competitive and the public is earning increased interest rates. The proposed regulation would limit federal deposit insurance to the first \$100,000 placed in an insured depository institution, regardless of the number of individuals the broker represents. If adopted, the regulation would severely curtail the ability of small and mid-size institutions to attract such funds, thereby reducing the market's competitiveness and most likely decreasing the returns of individual depositors.

The Division filed comments in June 1984, generally supporting a proposal by the Comptroller of the Currency to require national banks to conduct most securities brokerage activities in subsidiaries separate from the bank, which would be regulated by the

Securities and Exchange Commission (SEC). The proposal would accomplish the same purpose as an SEC proposal the Division supported in December 1983. Certain modifications to the proposal were suggested. The Division stated that a separate subsidiary where the bank deals only in government securities is not necessary since banks are specifically authorized by statute to engage in that business, and the SEC does not regulate firms engaging solely in that business. The Division also opposed a separate subsidiary requirement for bank brokerage on behalf of trust and other fiduciary accounts. The Division maintained that the cost of a separate subsidiary should only be imposed when material benefits are clearly evident. The Division further stated that the proposed regulations, with suggested modifications incorporated, constitute a constructive step toward consistent and equitable regulation of all participants in the securities brokerage business.

Also in June 1984, the Division filed comments with the SEC supporting the entry of the National Association of Securities Dealers (NASD) and the New York Stock Exchange (NYSE) into options trading. As to the NASD proposal, the Division argued that side-by-side market making, permitting the same firm to make a market by buying and selling both an option and its underlying stock, should be permitted. While volume would justify such trading in some stocks and options, side-by-side trading would promote liquidity for more marginal options, and such trading would prove cost effective for use of market-maker information. The Division also recommended that multiple trading, permitting more than one exchange or the over the counter market and at least one exchange to trade the same option simultaneously, be authorized. As to the NYSE proposal, the Division supported the suggestion that NYSE specialists be allowed to trade options on their stocks as a hedging device. The Division found an allocation plan for new options among exchanges anticompetitive and urged adoption of an open multiple trading system.

Statutory responsibilities under the Export Trading Company Act of 1982 have been placed on the Division. The Department of Justice, with the Department of Commerce, must review applications for Export Trade Certificates of Review that are filed under the Act. Such a certificate grants limited antitrust immunity to the holder and provides increased certainty in the application of the antitrust laws to export trade. The Division must review applications in order to determine whether the proposed conduct will substantially lessen competition within the United States, raise domestic prices, or otherwise violate a standard of the Act. All Department of Justice functions under the Act have been assigned to the Antitrust Division effective June 13, 1983. From that date through November 13, 1984, 50 applications were transmitted to the Department of Justice for analysis.

On April 26, 1984, the Division filed comments with the Civil Aeronautics Board (CAB) generally supporting proposed industry-wide rules to prevent competitive abuses by major airlines that provide computer reservation systems (CRS) to travel agents. However, the Division opposed the CAB proposal to regulate access fees for listing services in a CRS, and suggested several modifications to the proposed rules. The Division had previously responded to the CAB's Advance Notice of Proposed Rulemaking by submitting comments and proposed rules following an extensive investigation of the CRS industry in November 1983. CRS systems are used by travel agents to book reservations and sell tickets on most airlines. The computer displays can be biased in favor of the flights offered by the airlines sponsoring the CRS system. In addition, some airlines owning CRS systems charge competing airlines access fees for listing their services. The Division's investigation, which began in early 1982, resulted in the conclusion that the domination of the CRS industry by major carriers, particularly American Airlines which markets its SABRE system, and United Airlines, which markets its Apollo system, has led to serious competitive problems that affect both the CRS industry and the markets for scheduled airline passenger service. The CAB considered the results of the Division's investigation as well as comments from other parties, and issued a Notice of Proposed Rulemaking addressing problems in March 1984. The CAB's proposed rules include a prohibition of CRS display bias in most situations and a prohibition on charging different fees to competing airlines which have their schedules listed in a CRS, unless the differences charged reflect differences in the cost of listing the airlines.

The Division's proposed modifications included urging that the CAB's proposed general prohibition against biased CRS displays be strengthened. The elimination of display bias will enhance competition and eliminate the most prevalent method of exercising CRS market power in air transportation markets. The Division maintained that the proposed rule, if not modified, might allow CRS vendors to evade the rules preventing biased displays in some situations. The Division also reaffirmed its earlier position regarding the regulation of CRS access fees, stating that such price regulation might stifle innovation in this new industry. If

the CAB does regulate the prices, the Division urged that vendors not be permitted to reintroduce bias into their systems by allowing a CPS owner to show bias against any airline that was unwilling to pay the owner's access fees or by increasing prices to reintroduce bias against airline competitors. The Division also suggested the proposed rules require all airlines selling CPS services to provide schedules, fares, and seat availability data to all other CPS vendors. Additional modifications were suggested to correct specific problems of the CPS product. The Division will continue to monitor closely competitive developments in the CPS industry.

On August 27, 1986, the Division filed comments with the Federal Maritime Commission (FMC) urging the adoption of regulations to prohibit ocean liner conferences from engaging in practices that would deter conference members from independently setting their own rates. Conferences are organizations in which ocean steamship companies collectively fix rates legally, where approved by the Commission. The comments were filed in response to a Commission request on regulations drafted to implement the Shipping Act of 1984. Under the Act, ocean common carriers belonging to conferences may be exempt from antitrust laws if their organizational agreements are filed with the Commission and meet certain statutory requirements. One requirement mandates that each conference member be permitted to charge rates that differ from those collectively established by conference members. The Division contends that this requirement places a check on a conference's ability to charge monopoly rates. The Division also stated that the statutory requirement would be weakened without regulations that specifically prohibit conferences from engaging in practices that discourage conference members from taking independent action. The Division cited examples of various conference rules that might deter independent action, urging that such rules be prohibited as inconsistent with the requirements of the Shipping Act.

On August 10, 1986, the Division intervened before the Postal Rate Commission and filed comments supporting expeditious declassification of the Postal Service's Electronic Computer-Originated Mail (ECOM). The Division argued that the Postal Service's failure to implement Commission-recommended rates left ECOM rates non-compensatory, rendered the service illegal, and had a continuing adverse effect on competing private services. Thus, the burden of justifying continued service should be on any opponents of declassification.

	1986 Appropriation		1986 Base		1986 Estimate		Increase/Decrease				
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.			
Management and administration.....	89	95	\$3,850	89	95	\$3,879	89	95	\$3,879	---	---

Long-Range Goal: To provide effective and efficient management and policy direction of all Antitrust Division activities.

#### Major Objectives:

To provide policy direction and leadership for antitrust enforcement personnel.

To develop and maintain a working climate for Division personnel that fosters interest in, enthusiasm for, and dedication to the Division's programs.

To serve as articulate and persuasive spokespersons for competition policy within the Administration, before regulatory agencies and the Congress, and before the general public.

To allocate resources and to control the current and future workload and output of the Division so as to produce results that are beneficial to the public.



To improve the Division's capability to meet the requirements of the Freedom of Information and Privacy Acts.

To provide effective and efficient administrative support for all Antitrust Division activities.

To support the Division's professional staff with modern tools for information processing.

**Basic Program Description:** Policy guidance is essential to the successful functioning of the Division. Top management provides controls and direction for the full range of Division activities. The Assistant Attorney General, the Deputy Assistant Attorneys General, and section and field office chiefs make significant contributions to overall administration and management, in addition to specific case direction.

The responsibility for enforcing antitrust statutes requires reaction to complaints and to identifiable economic conditions, and a more sophisticated initiative designed to develop enforcement programs for long range problems such as preservation of competitive market structure. The Division also has the responsibility for serving as the federal government's primary spokesman and analyst on competition policy and its impact on legislative and governmental actions. The staff determines the allocation of a finite amount of resources among competing programs to meet the varied responsibilities of the Division as effectively as possible. Support encompasses a wide number of tasks to be performed in order to provide the resources and tools needed by the attorneys and economists to do their jobs. As the complexity of the Antitrust Division has increased, so has the need for administrative services.

**Accomplishments:** The Division continues to improve its management and administration through the use of sophisticated computer support. The Division will have an integrated electronic mail system and will use personal computers to enhance operations.

The Division has been studying for some time the application of the rule of reason analysis to vertical arrangements. A Division priority is to publish an antitrust guide for vertical arrangements explaining the economics of vertical practices and how current Division policy follows those principles. The guide should be helpful in simplifying the adjudication of vertical arrangements. This effort should contribute to the predictability of the enforcement intentions in this area and thereby increase certainty and reduce litigation to the benefit of all businesses. At present, the Division does not intend to deal with resale price maintenance in the guide. Unless the law is changed by the courts or by Congress, resale price maintenance is per se unlawful, and the Division will enforce that per se rule.

Because of the cost, sophistication, and risk of research and development, it is often essential for firms to collaborate to perform R&D. The Division recognizes the importance of joint ventures in reducing the costs and risks associated with R&D activity, as well as the fact that such activity is seldom likely to have significant anticompetitive effects. Accordingly, the Division has strongly and repeatedly asserted that the antitrust enforcement policies do not proscribe such distributable activity. In addition, the Division worked to develop and continues to support Title II of the Administration's National Productivity and Innovation Act, which is the best legislative solution to assure favorable antitrust treatment of R&D activity in the courts. Additionally, Section 9 and Section 11 of the Small Business Act allow procompetitive small business joint R&D ventures to obtain an immunity from the antitrust laws. The first such immunity was granted to the Small Business Technology Group.

On June 14, 1984, the Division issued the 1984 revised antitrust merger guidelines. The original guidelines were issued in 1968 and subsequently revised in 1982, presenting a substantial advance in merger analysis. The 1982 guidelines sought to promote compliance with the law by more clearly identifying the characteristics of mergers that would threaten competition and violate the antitrust laws. They incorporated the latest legal and economic learning in the recognition that some merger activity actually improves the economy's efficiency rather than threatening competition. The 1982 guidelines were subsequently reviewed in an effort to determine what changes or clarifications should be made after two years of working with them. The review included suggestions from Division employees, other federal agencies including experts at the Federal Trade Commission, and various scholars and members of the private bar. The review substantiated the need for several improvements to promote greater understanding by the business community of what

the law requires. The further clarification of the law presented in the 1984 guidelines will allow legally correct and economically beneficial business decisions to be made. The 1984 guidelines describe in greater detail how imports and foreign capacity will be considered in individual merger analysis. Finally, the 1984 guidelines state that claims of economic efficiencies resulting from proposed mergers will be taken into consideration and detail how alleged efficiencies are analyzed.

Legal Activities  
 Salaries and expenses, Antitrust Division  
 Priority Rankings

Base Program	
Program	Ranking
Termination and Prevention of Private Cartel Behavior.....	1
Preservation of Competitive Market Structure.....	2
Federal Appellate Activity.....	3
Competition Advocacy Program.....	4
Policy Analysis, Legislation and Training.....	5
Management and Administration.....	6

**Legal Activities**  
**Salaries and expenses, Antitrust Division**  
**Detail of Permanent Positions by Category**  
**Fiscal Years 1984 - 1985**

Category	1984 Authorized	1985 Authorized	1986 Request
Attorneys (905).....	314	281	281
Paralegal Specialists (950).....	64	64	64
Other Legal and Kindred (900-998).....	16	16	16
Safety Management Group (018-085).....	1	1	1
Social Sciences, Economics and Kindred (100-199).....	47	47	47
General Administration, Clerical and Office Services (300-399).....	244	222	222
Accounting and Budget (500-599).....	10	10	10
Business and Industry Group (1100-1199).....	6	6	6
Library and Archives Group (1400-1499).....	1	1	1
Mathematics and Statistics Group (1500-1599).....	1	1	1
<b>Total.....</b>	<b>704</b>	<b>649</b>	<b>649</b>
Washington.....	529	474	474
U.S. Field.....	175	175	175
<b>Total.....</b>	<b>704</b>	<b>649</b>	<b>649</b>

**Legal Activities**  
**Salaries and expenses, Antitrust Division**  
**Summary of Adjustments to Base**  
(Dollars in thousands)

	Perm. Pos.	Work- years	Amount
1985 as enacted.....	649	631	\$42,819
Supplementals requested:			
Pay increase supplemental requested:			Amount
Increased pay costs.....			\$816
Absorption of increased pay costs.....			-180
Net pay supplemental.....			666
Proposed rescission.....			-666
1985 appropriation anticipated.....	649	631	43,119
Adjustments to base:			
Savings resulting from management initiatives:			
Five percent pay reduction.....			-846
Uncontrollable increases:			
Annualization of 1985 pay increase.....			401
Restoration of reduction for change in hourly rate.....			73
Within-grade increases.....			280
Health benefits costs.....			69
Government Printing Office (GPO) printing costs.....			10
General Services Administration (GSA) reimbursable services.....			18
Federal Telecommunications System (FTS).....			55
Department telecommunications.....			42
Automated legal research and litigation support services.....			17
General pricing level increases.....			284
Total, uncontrollable increases.....			1,219
Decreases:			
Rate decrease for full-field investigations.....			-16
Total, decreases.....			-16
1986 Base.....	649	631	43,476

Legal Activities

Salaries and expenses, Antitrust Division

Justification of Adjustments to Base  
(Dollars in thousands)

	Work- years	Amount
<u>Savings resulting from management initiatives:</u>		
1. Five percent pay reduction.....	---	-\$846
Savings of \$846,000 will be realized as a result of the proposed five percent pay reduction in salaries for civilian federal employees.		
<u>Uncontrollable increases:</u>		
1. Annualization of 1985 pay increase.....	---	401
This provides for the annualization of the January 6, 1985 pay increase contained in Executive Order 12496, dated December 28, 1984. There are 261 compensable days in 1985 and 70 paid days (October 1, 1984 through January 5, 1985) that were not included in the pay raise amount of \$685,000. Additionally, \$150,000 of the request was absorbed. The calculation of the amount required for annualization is:		
70/261 x annual amount of pay raise.....		\$251,000
1985 absorption of pay.....		\$150,000
Total annualization.....		\$401,000
2. Restoration of reduction for change in hourly rate.....	---	73
Section 310 (b) (1) of the Omnibus Reconciliation Act of 1982 required that for 1984 and 1985 pay be computed on the basis of 2,087 workhours. These funds were withdrawn from the 1984 budget. For 1986 the basis for computing pay reverts to 2,080 workhours and restoration of the \$73,000 reduced in 1984 is required to fund the change in the hourly rate.		
3. Within-grade increases.....	---	250
This request provides for the increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$226,000 and benefits \$24,000 = \$250,000).		
4. Health benefits costs.....	---	69
The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective the first pay period after January 1, 1984, actual contributions to health insurance increased approximately 13 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$69,000 provides funds for increased costs from pay period No. 2 (\$19,878) to pay period No. 3 (\$22,529) projected for 26 pay periods.		
5. Government Printing Office (GPO) printing costs.....	---	10
The GPO is currently projecting a five percent increase over the 1985 printing cost of \$196,000. An additional \$10,000 will be required in 1986.		

	Work- years	Amount
6. GSA recurring reimbursable services..... Reimbursable payments are made to the GSA for heating, ventilation and air conditioning provided in excess of normal working hours and for guard service. GSA has estimated a five percent increase over 1985 charges.	---	\$18
7. Federal Telecommunications System (FTE)..... The FTS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1985, the uncontrollable increase will be \$65,000 over the 1984 base of \$349,000.	---	55
8. Department telecommunications..... Expenses for equipment, installation and commercial tolls (to include message units and directory assistance) have increased dramatically since April, 1984. An increase was not requested in 1985 due to the uncertainties surrounding the industry restructuring and deregulation. Annualization of the current level of billing indicates that 1986 expenses will be approximately eighteen percent higher than 1985 estimated expenses, requiring an uncontrollable increase of \$42,000.	---	42
9. Automated legal research and litigation support services..... Centralized JURIS, litigation support, and case management services are available for all departmental organizations through the Departmental Working Capital Fund (WCF). The WCF is projecting an increase of five percent over the FY 1985 costs of \$340,000.	---	17
10. General pricing level adjustment..... This request applies OMB pricing guidance as of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1986 estimates.	---	284
Total uncontrollable increases.....	---	1,219
Decreases (automatic non-policy):		
1. Rate decrease for full-field investigations..... The Office of Personnel Management (OPM) has notified users of a \$175 reduction below the FY 1984 base cost of \$1,550 charged for each full-field investigation. The uncontrollable decrease is calculated on average accession of 91 persons per year for a total reduction of \$16,000.	---	-16
Total uncontrollable decreases.....	---	-16
Total, adjustments to base.....	---	357

**Legal Activities**  
**Salaries and expenses Antitrust Division**  
**Summary of Requirements by Grade and Subject Class**  
(Dollars in thousands)

Grades and salary ranges	1985 Estimate		1986 Request		Increase/Decrease	
	Positions & Workyears	Amount	Positions & Workyears	Amount	Positions & Workyears	Amount
Executive Level IV, \$72,300.....	1		1		---	
ES-4, \$68,700.....	20		20		---	
ES-3, \$66,232.....	5		5		---	
ES-2, \$63,764.....	3		3		---	
ES-1, \$61,296.....	1		1		---	
GS/GM-16, \$52,262-\$7,940.....	167		167		---	
GS/GM-14, \$44,430-\$7,759.....	51		51		---	
GS/GM-13, \$37,599-\$8,876.....	57		57		---	
GS-12 \$31,619-\$1,105.....	53		53		---	
GS-11 \$26,381-\$4,292.....	46		46		---	
GS-9 \$21,804-\$8,347.....	40		40		---	
GS-8 \$19,740-\$8,662.....	39		39		---	
GS-7 \$17,824-\$3,170.....	97		97		---	
GS-6 \$16,040-\$8,855.....	28		28		---	
GS-5 \$14,390-\$8,710.....	22		22		---	
GS-4 \$12,862-\$6,723.....	12		12		---	
GS-3 \$11,458-\$4,896.....	5		5		---	
GS-2 \$10,501-\$3,216.....	2		2		---	
Total, appropriated positions.....	649	\$25,420	649	\$24,904	---	-\$516
Pay above stated annual rates.....		98		98	---	---
Lapses.....	-48	-1,638	-48	-1,641	---	97
Net savings due to lower pay scales for part of the year...		-207		---	---	207
Net permanent.....	601	23,673	601	23,461	---	-212
Average ES Salary.....		(\$67,509)		(\$68,483)		
Average GS/GM Salary.....		(\$37,717)		(\$37,051)		
Average GS/GM Grade.....		(10.98)		(10.98)		



**Legal Activities**  
**Salaries and expenses, Antitrust Division**  
**Summary of Requirements by Grade and Object Class (continued)**  
(Dollars in thousands)

Object Class	1985 Estimate Workyears	Amount	1986 Request Workyears	Amount	Increase/Decrease Workyears	Amount
11.1 Full-time permanent.....	601	\$23,673	601	\$23,461	---	-\$212
11.3 Other than full-time permanent:						
Part-time permanent.....	15	488	15	488	---	---
Temporary employment.....	16	470	15	463	---	-7
Other part-time and intermittent employment.....	---	14	---	14	---	---
11.5 Other personnel compensation:						
Overtime.....	8	298	8	298	---	---
Other compensation.....	---	107	---	100	---	-7
11.8 Special personal services payments.....	---	68	---	68	---	---
Total, workyears and personnel compensation.....	639	25,118	639	24,892	---	-226
12 Personnel benefits.....	---	2,611	---	2,654	---	43
13 Benefits to former personnel.....	---	31	---	31	---	---
21 Travel and transportation of persons.....	---	1,388	---	1,389	---	1
22 Transportation of things.....	---	210	---	219	---	9
23.1 Standard level user charges.....	---	3,082	---	3,082	---	---
23.2 Communications, utilities and other rent.....	---	3,603	---	3,710	---	207
24 Printing and reproduction.....	---	517	---	527	---	10
25 Other services.....	---	5,697	---	5,935	---	238
26 Supplies and materials.....	---	594	---	619	---	25
31 Equipment.....	---	398	---	418	---	20
Total obligations.....	639	43,119	639	43,476	---	357
Relation of obligations to outlays:						
Obligated balance, start-of-year.....		9,681		10,588		
Obligated balance, end-of-year.....		-10,588		-11,379		
Outlays.....		42,212		42,685		

## GENERAL STATEMENT

Mr. DWYER. We are pleased to welcome back to the Committee today the Assistant Attorney General for the Antitrust Division, J. Paul McGrath.

Mr. McGrath, you have a prepared statement, but please proceed in your own way.

Mr. McGRATH. Mr. Chairman, I would request that my prepared statement be made a part of the record, if the Committee is so inclined, and I would like instead just to make two or three observations.

The first is that basically what our request for the next fiscal year would do would be to level out our resources. We have lessened by a fair amount the resources that have been applied to the Antitrust Division over the last several years, in order to reduce the number of employees to a level that seemed more appropriate. That has basically now been accomplished.

My own view, after about a year and a half at the Antitrust Division, is that we have about the right amount of resources now. We actually were able to bring a slightly larger number of criminal cases last year than we ever did in our history. I do not feel that any of the other levels of enforcement suffered in any way because of a resource commitment.

We have changed a fair amount the way we do business in a number of respects. We have simply tightened up the way we control and monitor things. Our management systems are vastly better. This has been a five- or six-year process that has led us to this stage, but I think that the resources that have been applied this year and the ones that are requested for next year are at an appropriate level for the Antitrust Division.

I would be happy to answer any questions that the committee may have.

[The prepared statement of Mr. McGrath follows:]

ANTITRUST DIVISION

STATEMENT OF THE ASSISTANT ATTORNEY GENERAL  
J. PAUL MCGRATH

BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE  
ON THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE  
JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear in support of the Antitrust Division's budget request for Fiscal Year 1986 for 649 positions, 631 workyears, and \$43,476,000. This request reflects net uncontrollable changes after savings from management initiatives of \$357,000 to be undertaken during fiscal year 1986. The major change in this category is a reduction of \$846,000 as a result of the proposed five percent pay reduction for federal employees. No program increases are included in this request.

Vigorous enforcement of the antitrust laws against clearly harmful agreements among competitors has continued to be the primary focus of the Antitrust Division. During fiscal year 1984, the Division filed 100 criminal cases against 131 corporations and 104 individuals. During this period, we recovered fines totaling approximately \$22 million and jail sentences in excess of 106 months actual incarceration have been imposed. A large portion of this activity involves secret bid rigging on highway, electrical utility and water construction projects, but an expanding number of criminal cases involved competition in other industries. The Antitrust

Division also undertook to study and improve its handling of criminal matters through an extensive task force study. In addition, the Division filed 14 civil cases during fiscal year 1984.

Another significant accomplishment during the past fiscal year was the issuance of the revised 1984 Merger Guidelines. We carefully reviewed the 1982 Guidelines and expanded them in order to more fully express the manner in which we analyze the likely competitive implications of mergers and acquisitions and to reduce possible ambiguities based on our enforcement experience with the 1982 Guidelines. Thus, for example, the 1984 Guidelines set forth with greater clarity the analytical process employed by the Department in defining markets and in assessing the likely competitive consequences of mergers. They describe in greater detail how imports and foreign capacity are considered in analyzing particular mergers. The Guidelines also explain the analysis used when claims of economic efficiencies resulting from proposed mergers are raised. By helping to identify mergers and acquisitions that do not pose a significant threat to competition, transactions that benefit our economy and American consumers are not unnecessarily impeded by uncertainty over the application of the antitrust laws.

The issuance this past January of the Division's Vertical Restraints Guidelines was also a significant achievement. Those Guidelines set forth in considerable detail the manner in which the Division analyzes the competitive implications of

nonprice vertical restraints and clarifies the rule of reason analysis used in their evaluation. The Guidelines spell out the anticompetitive risks associated with nonprice vertical restraints. Based on that understanding, the Guidelines establish a two-step, structured rule of reason that distinguishes potentially anticompetitive restraints from all others. By providing the business and legal communities a clearer idea of how we evaluate nonprice vertical restraints, we believe the Guidelines will facilitate business planning in this area. I would emphasize that nothing in the Guidelines challenges decisional law or constitutes a departure from the Division's enforcement policy with respect to the practices it covers.

This concludes my statement, Mr. Chairman. I would be happy to address any questions you or other members of the Subcommittee may have.

## LEVEL OF BUDGET REQUEST

Mr. DWYER. Thank you, Mr. McGrath.

Except for the uncontrollable increases requested, this budget is approximately the same as the amount received for the current fiscal year?

Mr. McGRATH. Yes.

Mr. DWYER. Is the amount that you are requesting for fiscal year 1986 sufficient to handle the workload?

Mr. McGRATH. Yes, I think it is. What we would basically do would be to have next year about the same number of people that we have this year.

There would be relatively little modification in terms of how many people we have in our seven field offices, how many lawyers we have, and how many economists we have. We think we have a pretty good mix right now. The amount of money that we have for travel and automation and word processing and so on seems to be working out well, although we have been quite careful to monitor what people are doing. I think that this request, in general, is an appropriate one.

## BACKLOG

Mr. DWYER. What is the status of your backlog?

Mr. McGRATH. We really have no real backlog in the Antitrust Division. For instance, with our merger investigations, we are required under the Hart-Scott-Rodino Act to get those investigations done after certain statutory periods, and if we don't, the merger goes ahead, so we have to get them done.

In criminal cases, under other statutes, we generally, have to get the cases to trial within a certain period of time. So again, we don't tend to have backlogs there.

We have one of the smallest freedom of information backlogs, I suspect, in the entire Federal Government, even though we get a lot of requests. We felt that since a lot of them are requests that are generally important to the public in terms of economic information, it is important to stay up to date, so that the Antitrust Division really doesn't have backlogs in that sense.

Mr. DWYER. How about in criminal cases, the same thing?

Mr. McGRATH. The same there. The one place where we could suffer from delays, if we didn't have enough resources, would be at the grand jury stage, but I am not aware of any case where we have been delayed unduly because of a lack of resources. Sometimes it is hard to get the right witness or the right information, but that is not a resource problem.

## RETURN TO PRIVATE LAW PRACTICE

Mr. DWYER. We understand, Mr. McGrath, you are leaving government as of tonight?

Mr. McGRATH. As of next Monday. I am going back to New Jersey, my homestate, Montclair, a little different part of the state than yours. I'm going back to work at the law firm I was with in New York City.

Mr. DWYER. What firm is that?

Mr. McGRATH. Dewey-Ballantine.

Mr. DWYER. We will let you go with good luck and godspeed, but we will give you some questions for some homework.

Mr. McGRATH. Very good. I didn't think I would get away scot-free. Thank you, Mr. Chairman.

[Questions submitted for the record and the answers thereto follow:]

## QUESTIONS SUBMITTED BY CONGRESSMAN ALEXANDER

Antitrust DivisionQUESTION:

What, in general, is the Department's policy with respect to "divestiture" as a technique for resolving a monopoly market power problem when other reasonable efforts at regulation have proven to be unsuccessful?

ANSWER:

Divestiture, while normally thought to be a severe remedy for market power problems, is never eliminated as a potential remedy when other methods of restoring competition do not appear to be potentially successful. Divestiture may be a preferred remedy in certain situations when it can eliminate the monopolist's incentive and ability to affect competition in related unregulated markets, especially when there are costs common to both and where the benefits of eliminating those incentives and abilities outweigh any loss of efficiencies. The settlement of the Department's suit with AT&T is an example where divestiture was thought to be the superior remedy.

CRS DivestitureQUESTION:

What is the Department's policy on the use of divestiture, either through sale or spin-off, as a solution in connection with the computer reservations systems (CRS) problems relating to dominant passenger carrying airlines?

ANSWER:

During the course of our investigation of the CRS market, we considered whether CRS should be separated from carrier-owners. The pros and cons of divestiture, in fact, continue to be reviewed. Divestiture would eliminate the ability of carriers to use their ownership of CRS to impede entry and competition in both the CRS market and the airline passenger market. Divestiture would likely result in a reduction in the instance of biasing and high access charges that disadvantage competing carriers. Moreover, since carriers would have an incentive to participate in all CRS serving the cities from which their flights depart, new opportunities for competing CRS would likely result. As a consequence, a market containing the most efficient combination of CRS services and price levels might very well develop after divestiture even without continued regulation. On the other hand, to the extent that vertical integration of carriers into the CRS market achieves efficiencies, those efficiencies would be lost as a result of divestiture. Moreover, some of the competitive harm resulting from vertical integration in the CRS market might possibly be replicated after divestiture by certain types of exclusive contracts between independent CRS and dominant carriers.



We were unable in the past and are still unable to rule out divestiture as a viable and perhaps ultimately essential solution to the problems in this industry. On balance, there may be sufficient benefits to divestiture. It should not, however, be imposed lightly in the CRS industry. As we stated in our filings at the Civil Aeronautics Board, we concluded that it is more appropriate to attempt first to devise a set of industry-wide rules that would minimize regulatory burdens and preserve efficiencies from integration while minimizing if not eliminating the competitive problems that were uncovered by our investigation.

QUESTION:

If divestiture was the solution selected, how, in practical terms, could it be achieved in the CRS dispute?

ANSWER:

If the Department were to seek divestiture, it would be sought through filing of antitrust cases in Federal courts. Such a course of action might require separate cases in different jurisdictions with potentially different results in each. The outcome would depend upon a favorable verdict and the court's acceptance of the sought-for remedy. Additionally, in order to recommend divestiture we would have to evaluate the technical considerations involved in splitting off the CRS from the carrier-owner's internal computer systems.

QUESTION:

Assuming that divestiture is not among the options available for resolution of the CRS issue, what other antitrust remedies can be pursued by the Department to prevent or forestall developments which might give rise to further allegations of anti-competitive or anti-consumer activities by the major CRS carrier-owners?

ANSWER:

Our CRS investigation did indicate that there had been a substantial loss of airline competition because of the market power possessed and used by carrier-owners of CRS. We reviewed possible alternatives for restoring a competitive airline market as quickly and thoroughly as possible. When the Civil Aeronautics Board (CAB) issued its Advance Notice of Proposed Rulemaking in September 1983, the Department believed this would be an opportunity to alleviate the fundamental problems of the CRS industry that we had discovered. We proposed industry-wide rules because we believed they presented the best means for correcting the market problems we had identified while continuing to promote innovation and efficiency in CRS development. The rules developed in July, 1984 by the CAB as a result of that rulemaking have been in effect for only about five months. We have observed some of the problems that we foresaw might result from the CAB's rules. Before proposing some alternative remedy, however, we must be satisfied that competitive rules are incapable of solving the problems. The Department is not convinced that we have yet reached that point. The existing rules may need some re-examination on the part of the Department of Transportation (DOT) and, of course, we continue to review the problems in the industry. If we conclude that modification of the current rules are necessary and desirable, we will petition DOT for implementation of revisions.

Admittedly, it is difficult to attempt continually to devise rules for every situation in which the dominant carrier-vendors may try to circumvent existing rules. There is also a danger that rules will inhibit possible technological enhancement of the systems or will retard economic efficiencies. If we conclude that no set of rules can substantially eliminate these competitive problems, other methods of correcting them must and will be pursued by the Department. At this time, however, we still are not convinced that rules are incapable of controlling market power abuses in the CRS industry.

QUESTIONS SUBMITTED BY CONGRESSMAN DWYER

Antitrust Division

FY 1985 Supplemental Pay Requirements

QUESTION:

What are the Division's total pay requirements associated with the January 1, 1985, 3.5 percent increase granted Federal civilian employees?

ANSWER:

In FY 1985, the Division's total requirement is \$815,000. Of this amount, the Division is requesting \$665,000 in supplemental funding and will absorb \$150,000.

QUESTION:

In what areas, if any, are you absorbing these costs for FY 1985 and what impact will this absorption have upon your anticipated program levels?

ANSWER:

The \$150,000 pay absorption is being spread across all program areas and is expected to have a negligible impact as a result of productivity improvements.

QUESTION:

How many cases did the Division initiate in FY 1984 and how does that number compare with FY 1983?

ANSWER:

In FY 1984, the Division initiated 14 civil cases and 100 criminal cases for a total of 114 cases. This was an increase of 4 civil cases and 2 criminal cases, for a total increase of 6 cases, over FY 1983.

QUESTION:

Could you provide a list of these cases that you initiated in 1984 for the record both in the civil and criminal areas and also provide a short description of each case?

ANSWER:

Attached are a list of the civil and criminal cases initiated in FY 1984 and a short description of each case.

FY 84 CRIMINAL CASES FILED  
(Excluding Road Construction)

United States v. Keystone Automotive Plating Corp., et al. (D.N.J., filed October 25, 1983) charged five corporations and five individuals with conspiring to fix prices for reconditioned automobile bumpers in the northern New Jersey-metropolitan New York area. The defendants were convicted after trial and later filed a Brady motion, which was granted. The defendants subsequently pled nolo contendere and were fined a total of \$166,000. One corporate defendant was voluntarily dismissed by the government.

United States v. Cowan Concrete Products, Inc., et al. (D. Colo., filed November 3, 1983) charged two corporations and three individuals with price fixing and bid rigging in connection with the supply of ready-mix concrete in Greeley and Fort Collins, Colorado. Three defendants pled guilty; two defendants went to trial, following which the corporation was convicted and the individual was acquitted. Fines totaled \$170,000 and the two individuals each were sentenced to serve two months in jail.

United States v. The John A. Becker Co., et al. (S.D. Ohio, filed November 4, 1983) charged five corporations and five individuals with conspiring to fix prices of electrical wire and conduit sold in the Dayton, Ohio area. Two of the defendants pled guilty and were fined a total of \$175,000. The remaining defendants have pled nolo contendere and await sentencing.

United States v. William L. Wood (E.D. Va., filed November 17, 1983) charged the sole proprietor of Wood's Orchard of Hampton, Virginia with bid rigging and price fixing in connection with the sales of fresh fruits and vegetables to public schools in Virginia. The defendant pled guilty and was fined \$10,000 and incarcerated for 14 days.

United States v. Richards Electric Supply Co., Inc., and Ivan S. Mirach (S.D. Ohio, Western Division, filed December 2, 1983) charged a Cincinnati firm and its president with price fixing of electrical wire and conduit sold between 1972 and January 1979. The defendants pled guilty and were fined a total of \$175,000.

United States v. Waldbaum, Inc., et al. (E.D.N.Y., filed June 6, 1984) charged four corporations with price fixing through the elimination of double value coupons on grocery products and meat items in Nassau and Suffolk Counties, New York. The defendants pled nolo contendere and were fined a total of \$355,000.

United States v. Waldbaum, Inc. and Supermarkets General Corporation (E.D.N.Y., filed June 6, 1984) charged price fixing through the elimination of double and triple value coupons on grocery products and meat items in Nassau and Suffolk Counties. The defendants pled nolo contendere and were fined a total of \$475,000.

United States v. John Maggio (S.D.N.Y., filed June 12, 1984) charged the president of Leaseway Haulers, Inc. with conspiring to allocate customers and rig bids and price quotations for the provision of containerized refuse removal services in the Onondaga County area of New York. This case is scheduled for trial on May 15, 1985 and has been consolidated for trial with United States v. Rubbish Removal, Inc., et al. (N.D.N.Y., filed December 13, 1983).

United States v. Wilkoff Company, et al. (W.D. Pa., filed June 28, 1984) charged three corporations and five individuals with bid rigging, mail fraud and wire fraud in connection with monthly contracts for the purchase of scrap metal from two Rockwell International Corporation manufacturing plants located in New Castle, Pennsylvania. The defendants pled nolo contendere and were fined a total of \$299,000.

United States v. Randall L. Wilkoff (W.D. Pa., filed June 28, 1984) charged the vice president of Wilkoff Company with obstruction of justice for removing a corporate document that was responsive to a subpoena duces tecum served upon him on behalf of Wilkoff Company. The defendant pled nolo contendere and was fined a total of \$2,500.

United States v. Air Florida, Inc., et al. (D.D.C., filed July 11, 1984) charged four corporations with price fixing on air transportation service between the United States and Central America beginning in 1982 and continuing into 1983. Two defendants pled nolo contendere and were fined a total of \$250,000. No trial date has been scheduled for the remaining defendants.

United States v. Rubbish Removal Inc., et al. (N.D.N.Y., filed December 13, 1983) charged seven corporations and six individuals with conspiring to allocate customers and rig bids and price quotations for the provision of containerized refuse removal services in the Onondaga County area of New York. Trial is scheduled to begin on May 15, 1985.

United States v. Association of Ship Brokers and Agents (U.S.A.), Inc., et al. (S.D.N.Y., filed December 13, 1983) charged four corporations with price fixing in connection with the provision of port agent services to tramp vessels in the port of New York. The defendants pled nolo contendere and were fined a total of \$220,000.

United States v. Nilson Van & Storage and Howard A. Nilson (D.S.C., filed December 19, 1983) charged price fixing, mail fraud and false statements in connection with the provision of long-term storage for military personnel at Fort Jackson, South Carolina. The defendants were convicted after trial of making false statements and acquitted on the remaining two counts. The defendants await sentencing.

United States v. Checker Transfer & Storage Co., et al. (D.S.C., filed December 19, 1983) charged three corporations and two individuals with price fixing, mail fraud and false statements in connection with the provision of long-term storage services for military personnel at Fort Jackson, South Carolina. One corporate defendant pled guilty and was fined \$25,000; the remaining defendants went to trial and were acquitted on all counts.

United States v. Boineau's, Inc. and Charles E. Boineau (D.S.C., filed December 20, 1983) charged price fixing in connection with the provision of long-term storage services for military personnel at Fort Jackson, South Carolina. The defendants pled guilty and were fined a total of \$25,000.

United States v. Tussey Mountain Log Homes, Inc., et al. (M.D. Pa., filed January 5, 1984) charged one corporation and two individuals with conspiring to fix and maintain the prices of log building kits, a package which includes materials necessary to construct a log building (pre-cut logs, plans and hardware). The defendants pled guilty and were fined a total of \$17,000 and one individual was incarcerated for 30 days.

United States v. Holiday Oil Company, et al. (D. Utah, filed January 11, 1984) charged three corporations and five individuals with conspiring to fix retail prices of gasoline in the Salt Lake City metropolitan area. The defendants pled nolo contendere and were fined a total of \$300,500.

United States v. David Hoopengardner (S.D. Fla., Fort Lauderdale Division, filed July 26, 1984) charged the general manager of United Sanitation Services with bid rigging and allocation of customers for waste disposal services in Dade and Broward Counties, Florida from June 1979 through December 1983. Trial is scheduled to begin on April 22, 1985.

United States v. Hull Oil Co. (S.D. Ala., Southern Division, filed July 30, 1984) charged a Panama City, Florida firm with price fixing on retail sales of gasoline in Greater Mobile, Alabama from May 1979 through July 1982. The defendant pled nolo contendere and was fined \$50,000.

United States v. Champion Sprayers, Inc., et al. (W.D. Tex., Austin Division, filed August 2, 1984) charged one company and two individuals with bid rigging on a federally funded aerial application contract let by the Texas Department of Agriculture as part of its Imported Fire Ant Control Program in 1983. The defendants pled guilty and were fined a total of \$30,000.

United States v. Waldbaum, Inc., et al. (D. Conn., filed August 15, 1984) charged one company and two individuals with price fixing of grocery products and meat items in Connecticut and western Massachusetts from the fall of 1978 until late 1980. Trial commenced on March 5, 1985.

United States v. The Stop & Shop Companies, Inc. and Waldbaum, Inc. (D. Conn., filed August 15, 1984) charged two companies with price fixing of grocery products and meat items, for which manufacturers' coupons were published and distributed, by terminating the offer of double-value coupons in Connecticut from March 1982 until late 1982. Trial is scheduled to begin on April 9, 1985.

United States v. Andrew Jerrel Nimmo (W.D. Tex., filed September 18, 1984) charged the owner of Nimmo Spraying Service with aiding and abetting a bid rigging conspiracy on a federally funded aerial application contract let by the Texas Department of Agriculture as part of its 1983 Spring Imported Fire Ant Control Program. The defendant pled guilty and was fined \$5,000.

In addition, for the period October 1, 1983, through September 30, 1984, the Antitrust Division initiated 20 criminal prosecutions involving 22 companies and 18 individuals in connection with conspiracies to rig bids on electrical construction projects in Indiana, Kentucky, North Carolina, Ohio and Pennsylvania. Fourteen cases, involving 12 corporations and ten individuals, have been resolved through guilty pleas. One case, involving one corporation and one individual, was resolved through pleas of nolo contendere. Four cases, involving eight companies and six individuals, are scheduled for trial. Twenty-one defendants have been fined over \$1 million and seven individuals have been sentenced to serve an average of 107 days in jail. During this period, seven defendants from similar cases initiated in prior fiscal years were fined a total of \$3.8 million, and one individual was sentenced to serve 150 days in jail.

For the period October 1, 1983, through September 30, 1984, the Antitrust Division also initiated eight criminal prosecutions involving seven corporate defendants and eight individual defendants charging bid rigging, mail fraud and false statements violations on water and sewer construction projects in South Carolina, North Carolina, Tennessee and Alabama. Five cases, involving three corporations and three individuals, have been resolved through guilty pleas. Two cases resulted in trials in which two companies and two individuals were convicted and one company and two individuals were acquitted. Eight defendants were fined a total of \$680,000, and five individuals have served an average of four months in jail. In addition, during this period, two defendants from similar cases initiated in prior fiscal years were fined a total of \$75,000, and one individual was sentenced to serve 90 days in jail.

In sum, the Antitrust Division filed 100 criminal cases during FY 1984 (48 road building; 20 electrical construction; 8 water construction; and 24 others).



State highway construction contracts are let for competitive bidding several times each year. Most state laws provide that a construction contract is to be awarded to the lowest bidder, following the opening of sealed bids. In cases in this area, it usually appears that the contractors agreed upon the low bidder prior to the contract letting. The prearranged low bidder would then win the job because the other contractors submitted intentionally high bids, often in the expectation of similar arrangements on other jobs. Sometimes payments are made in return for the high bids. In this way, the contractors avoid competition and significantly raise the price of the construction projects, many of which are federally funded in accordance with the Federal Aid Highway Act, 23 U.S.C. §§101 et seq.

For the period October 1, 1983, through September 30, 1984, the Division initiated 48 criminal prosecutions involving 51 corporate defendants and 33 individual defendants in connection with conspiracies to rig bids on public highway and airport construction projects in 12 states. Twenty-one cases have been resolved in which 23 corporations and 11 individuals pleaded guilty. Six cases, involving seven corporations and eight individuals, are awaiting trial. Five cases have been completed through trials in which the juries convicted six corporations and two individuals. Fourteen cases, involving 13 corporations and ten individuals, await sentencing. Thirty-five of the defendants involved in the 48 cases have been fined over \$4 million, and seven individuals have served an average of 94 days in jail. In addition, during this period, 13 defendants from prior cases were fined a total of \$2.2 million, and seven individuals were sentenced to serve an average of 77 days in jail. For the period October 1, 1984, through February 28, 1985, the Division initiated four criminal prosecutions involving three corporate defendants and three individual defendants in connection with conspiracies to rig bids on public highway and airport construction projects. Currently the Division is using 24 grand juries empaneled in 21 states to investigate possible bid rigging conspiracies in this industry.

From May 11, 1982, through February 28, 1985, the Division initiated 18 criminal prosecutions against 14 corporations and 19 individuals in connection with conspiracies to rig bids on utility construction projects in Alabama, North Carolina, South Carolina and Tennessee. These felony prosecutions charged violations of Section 1 of the Sherman Act, mail fraud and false statements involving construction on utility projects for work performed on water and wastewater facilities and distribution lines. The alleged illegal activities of the defendants and co-conspirators consisted of allocating among themselves utility construction projects by submitting collusive, noncompetitive and rigged bids, or withholding bids; designating the successful low bidder; submitting intentionally high or complementary bids; and submitting bid proposals and affidavits containing fraudulent statements and entries. Fourteen cases have been resolved in which nine corporations and 13 individuals pleaded guilty. One case, involving one corporation and one individual, awaits trial.

Three cases have gone to trial in which three companies and three individuals were convicted and one company and two individuals were acquitted. Twenty of the defendants were fined a total of \$1.5 million, and 15 individuals have served an average of four months in jail. For the period October 1, 1983, through September 30, 1984, the Division initiated eight criminal prosecutions involving seven corporate defendants and eight individual defendants charging bid rigging, mail fraud and false statements violations on utility construction projects in four states. Five cases, involving three corporations and three individuals, have been resolved through guilty pleas. Two cases resulted in trials in which two companies and two individuals were convicted and one company and two individuals were acquitted. Eight defendants were fined a total of \$680,000, and five individuals have served an average of four months in jail. In addition, during this period, two defendants from prior cases were fined a total of \$75,000, and one individual was sentenced to serve 90 days in jail. From October 1, 1984, through February 28, 1985, the Division initiated one criminal prosecution against one corporation and one individual in connection with conspiracies to rig bids on utility construction projects. Currently the Division is using 17 grand juries empaneled in 10 states to investigate possible utility bid rigging conspiracies.

ROAD BUILDING

United States v. Goodell Bros., Inc., et al.  
(D. Col., filed October 4, 1983)

United States v. Best-Way Paving Co., et al.  
(D. Col., filed October 4, 1983)

United States v. Carroll Contracting and Ready-Mix, Inc., et al.  
(N.D. Fla., filed October 6, 1983)

United States v. Adukaitis Contracting Company, Inc.  
(E.D. Pa., filed October 20, 1983)

United States v. Marion Construction Company, et al.  
(N.D. Fla., filed November 2, 1983)

United States v. Land Paving Company  
(D. Neb., filed November 16, 1983)

United States v. A.P.T. Construction Company, et al.  
(E.D. Ark., filed January 3, 1984)

United States v. Russell Standard Corporation, et al.  
(W.D. Pa., filed January 5, 1984)

United States v. Eldon LeRoy Ogren  
(N.D. Ga., filed January 19, 1984)

United States v. Holland Contracting Company, et al.  
(N.D. Ga., filed January 23, 1984)

United States v. Marine Structures, Inc., et al.  
(N.D. Fla., filed January 31, 1984)

United States v. Oxford Construction Company, et al.  
(N.D. Ga., filed February 13, 1984)

United States v. Winters and Fleming, Inc.  
(W.D. Pa., filed February 22, 1984)

United States v. Cooper and Woodruff, Inc., et al.  
(W.D. Tex., filed March 15, 1984)

United States v. Moore Construction Company, Inc.  
(D.S.D., filed March 20, 1984)

United States v. Hubbard Construction Company  
(N.D. Fla., filed March 29, 1984)

United States v. Emulsion Products Company  
(D. Del., filed April 10, 1984)

United States v. Kentucky-Virginia Stone Company, Inc., et al.  
(E.D. Ky., filed April 18, 1984)

United States v. Everds Brothers, Inc., et al.  
(S.D. Iowa, filed April 20, 1984)

United States v. Hewitt Contracting Company, Inc.  
(N.D. Fla., filed April 20, 1984)

United States v. Willard R. Elsberry  
(N.D. Fla., filed April 24, 1984)

United States v. Thomas J. Craggs  
(N.D. Fla., filed April 24, 1984)

United States v. Dakota Contracting Corporation  
(D.S.D., filed May 17, 1984)

United States v. Frank Martuccio Asphalt & Paving, Inc.  
(W.D. Pa., filed May 30, 1984)

United States v. Edward D. Keller  
(D.N.J., filed June 20, 1984)

United States v. Emulsion Marketing Inc.  
(D.N.J., filed June 22, 1984)

United States v. Dosch-King Co., Inc., et al.  
(D.N.J., filed June 28, 1984)

United States v. S. M. McMinn, Inc., et al.  
(E.D. Pa., filed June 29, 1984)

United States v. Dave Gustafson & Company, Inc., et al.  
(D.S.D., filed July 27, 1984)

United States v. Ivan Dement, Inc., et al.  
(W.D. Tex., filed August 2, 1984)

United States v. Gilvin-Terrill, Inc., et al.  
(W.D. Tex., filed August 2, 1984)

United States v. Sterling Paving Co., et al.  
(D. Colo., filed August 9, 1984)

United States v. Derry Construction Co., Inc.  
(W.D. Pa., filed August 10, 1984)

United States v. Washita Construction Company, et al.  
(W.D. Okla., filed August 21, 1984)

United States v. Mobile Materials, Inc., et al.  
(W.D. Okla., filed August 22, 1984)

United States v. Cherokee Paving Company, et al.  
(W.D. Okla., filed August 22, 1984)

United States v. Shawnee Paving Co.  
(W.D. Okla., filed August 22, 1984)

United States v. Latrobe Road Construction, Inc.  
(W.D. Pa., filed August 27, 1984)

United States v. Donald L. Schoeberlein  
(S.D. Iowa, filed September 11, 1984)

United States v. Windsor Service, Inc.  
(E.D. Pa., filed September 12, 1984)

United States v. Windsor Service, Inc.  
(E.D. Pa., filed September 12, 1984)

United States v. E. J. Breneman, Inc., et al.  
(E.D. Pa., filed September 19, 1984)

United States v. E. J. Breneman, Inc.  
(E.D. Pa., filed September 19, 1984)

United States v. Somerset Tar & Asphalt Co., Inc., et al.  
(D.N.J., filed September 20, 1984)

United States v. Garden State Road Materials, Inc., et al.  
(D.N.J., filed September 20, 1984)

United States v. Glover Construction Co., Inc.  
(W.D. Okla., filed September 26, 1984)

United States v. The Diamond Engineering Co., et al.  
(D. Neb., filed September 26, 1984)

United States v. Frasca, Inc.  
(W.D. Okla., filed September 27, 1984)

ELECTRICAL

United States v. Richards & Associates, Inc.  
(E.D.N.C., filed November 14, 1983)

United States v. Starr Electric Company, Incorporated, et al.  
(E.D.N.C., filed December 8, 1983)

United States v. McCarter Electrical Company, et al.  
(E.D.N.C., filed February 9, 1984)

United States v. W. V. Pangborne and Co., Inc., et al.  
(E.D. Pa., filed March 8, 1984)

United States v. Watson Electrical Construction Co., et al.  
(E.D.N.C., filed March 12, 1984)

United States v. Port City Electric Company, et al.  
(E.D.N.C., filed March 12, 1984)

United States v. Watson Electric Company, Inc., et al.  
(E.D.N.C., filed May 14, 1984)

United States v. Pendergraph & Thomerson Electric  
Co., Inc., et al.  
(E.D.N.C., filed May 14, 1984)

United States v. Darden Electric Company, Inc.  
(E.D.N.C., filed June 12, 1984)

United States v. Lord Electric Company, Inc., et al.  
(E.D. Ky., filed June 14, 1984)

United States v. William G. Canter  
(E.D.N.C., filed July 10, 1984)

United States v. Sargent Electric Company, et al.  
(E.D. Pa., filed July 19, 1984)

United States v. Warden Electric, Inc.  
(N.D. Ohio, filed August 22, 1984)

United States v. Boyd Liquidation Corp., et al.  
(N.D. Ohio, filed August 22, 1984)

United States v. A. F. Beil Electric, Inc., et al.  
(N.D. Ohio, filed August 22, 1984)

United States v. Edward J. Slattey  
(N.D. Ohio, filed August 22, 1984)

United States v. A-A-A Electrical Co., Inc., et al.  
(E.D.N.C., filed August 28, 1984)

United States v. Bryant Electric Company, Inc., et al.  
(E.D.N.C., filed August 29, 1984)

United States v. Modern Electric Co. of  
Statesville, N.C., et al.  
(E.D.N.C., filed August 29, 1984)

United States v. Franklin Wiring Co.  
(N.D. Ohio, filed September 21, 1984)

UTILITY

United States v. Preston Carroll Company, Inc.  
(D.S.C., filed October 12, 1983)

United States v. CFW Construction Co., Inc.  
(D.S.C., filed October 12, 1983)

United States v. Rand Construction Company, Incorporated, et al.  
(W.D.N.C., filed November 10, 1983)

United States v. Dellinger, Inc., et al.  
(D.S.C., filed November 18, 1983)

United States v. John Bruff Wilson  
(E.D. Tenn., filed November 21, 1983)

United States v. Patterson & Wilder Construction  
Company, Inc., et al.  
(N.D. Ala., filed January 10, 1984)

United States v. Charles Carlton Meehan  
(E.D.N.C., filed February 21, 1984)

United States v. W. F. Brinkley & Son Construction, et al.  
(E.D.N.C., filed July 11, 1984)



FY 84 CIVIL CASES FILED

United States v. National Medical Enterprises, Inc. and NME Hospital, Inc. (E.D. Cal., amended complaint filed February 21, 1984) challenged the December 30, 1982, acquisition of Modesto City Hospital of Modesto, California by National Medical Enterprises, Inc. and its wholly owned subsidiary, NME Hospitals, Inc., both of Los Angeles. This acquisition combined the largest and third largest hospitals in Stanislaus County and resulted in NME's market share increasing from 36.8% to 51.2%. The case is in discovery; trial is scheduled to begin on July 7, 1985.

United States v. Beverly Enterprises, Inc., et al. (M.D. Ga., filed January 18, 1984) challenged the proposed acquisition of the capital stock of Southern Medical Services, Inc. of Birmingham, Alabama by Beverly Enterprises of Pasadena, California. The planned acquisition would have eliminated competition between these two nursing home facilities and increase concentration in the provision of nursing home care in Macon and Augusta, Georgia and Montgomery and Mobile, Alabama. A consent decree was entered by the court on June 7, 1984.

United States v. Association of Engineering Geologists (C.D. Cal., filed January 24, 1984) alleged that the defendant adopted and adhered to a code of ethics that unreasonably restricted commercial advertising, price competition and solicitation in the sale of engineering geology services. A consent decree was entered by the court on December 19, 1984.

United States v. South Water Market Credit Association (N.D. Ill., filed March 1, 1984) alleged that the defendant conspired to fix credit terms employed by its members in the sale of produce. A consent decree was entered by the court on May 30, 1984.

United States v. The LTV Corporation (D.D.C., filed March 21, 1984) alleged that the acquisition of Republic Steel by LTV Corporation violated Section 7 of the Clayton Act in three product areas: hot-rolled carbon and alloy sheet and strip, cold-rolled carbon and alloy sheet and strip, and cold-rolled stainless sheet and strip. A consent decree was entered by the court on August 2, 1984:

United States v. Steamship Trade Association of Baltimore, Inc., et al.:

United States v. Association of Ship Brokers and Agents (U.S.A.), Inc., of New York City, et al.:

United States v. Philadelphia Marine Trade Association, et al.; and

United States v. West Gulf Maritime Association, Houston, et al.

These four separate complaints were filed on May 10, 1984, in the District of Maryland and alleged that 17 corporations violated Section 1 of the Sherman Act in connection with the provision of port agent services to tramp vessels in four ports: Baltimore, Maryland; New York, New York; Philadelphia, Pennsylvania; and the West Gulf ports. Consent decrees were entered by the court on November 15, 1984.

United States v. John Barth, Inc., et al. (E.D. Wash., filed July 23, 1984) alleged that five firms that buy hops from growers and sell them to brewers conspired to fix prices for the sale of hops and related products and services from 1976 through July 23, 1984. A proposed consent decree was filed with the court on March 4, 1985.

United States v. Rice Growers Association of California and Pacific International Rice Mills, Inc. (E.D. Cal., filed August 17, 1984) challenged the acquisition by Rice Growers Association of California of assets of Pacific International Rice Mills, Inc. The suit alleged that the acquisition would violate Section 7 of the Clayton Act by substantially lessening competition in the purchase, milling, and sale of short- and medium-grain rice grown in California. Trial was completed on February 1, 1985, and we await the court's decision.

United States v. Rocky Mountain Motor Tariff Bureau., Inc. (D. Colo., filed August 28, 1984) alleged that the largest motor carrier rate bureau in the country fixed prices of trucking freight rates from July 1980 through at least 1983. This matter is still pending and settlement negotiations are being conducted.

United States v. The Coastal Corporation (D.D.C., filed August 30, 1984) alleged that Coastal, a corporation engaged in oil and gas exploration, violated the premerger notification provisions of the Hart-Scott-Rodino Act of 1976 when it purchased 75,500 shares of Houston Natural Gas Corporation on January 19, 1984, without having notified the federal antitrust agencies of its intent to purchase such shares. A consent decree was entered on November 29, 1984, which ordered Coastal to pay a \$230,000 civil penalty.

United States v. Waste Management, Inc. and SCA Services, Inc. (D.D.C., filed September 12, 1984) challenged the proposed tender offer acquisition by Waste Management of SCA Services. Waste Management, Inc. is the largest waste management company in the United States and provides waste management services in at least 33 states. SCA Services, Inc. is the third largest waste management company in the United States and operates in at least 28 states. A proposed consent decree was filed simultaneously, which would require the prompt divestiture of about 40 percent of SCA's revenue-producing operations to a third party, Genstar Corporation. That decree is still pending with the court.

Task Force StudyQUESTION:

In your statement you said that the Division undertook to study and improve its handling of criminal matters through an extensive task force study. Could you tell us what were the results of that study and how will they improve the handling of criminal matters?

ANSWER:

The Antitrust Division informally studied numerous aspects of its criminal enforcement activities last year with the goal of possibly improving efficiency and detection of violations.

While this review confirmed the general perception that criminal antitrust prosecution has been very successful in recent years, the Division has determined to intensify its efforts in several enforcement-related areas, including supervisory monitoring of investigations and litigation, streamlining grand jury investigations, improving communication among litigating sections and field offices, making better use of investigatory resources in other agencies, updating its grand jury manual, assisting in the development of sentencing recommendations under recently enacted legislation, working closely with United States Attorneys' offices, developing a comprehensive grand jury training program, improving its use of economists and automated data support services, and expanding its program of communicating with government and business entities to increase their sensitivity to possible antitrust violations. The Antitrust Division hopes these efforts will make it more difficult for antitrust violations to escape detection and easier for such violations to be prosecuted efficiently

1984 Merger GuidelinesQUESTION:

In your statement you also referred to the issuance of the revised 1984 Merger Guidelines. Could you summarize for the Committee the contents of the 1982 Guidelines, how the 1984 revised Guidelines differ, and what the impact of this revision will be on the business community as well as consumers?

ANSWER:

The Justice Department published Merger Guidelines in 1982--a full 14 years following publication of the original Merger Guidelines in 1968. During these 14 years, the federal antitrust enforcement agencies and the courts had made great strides in improving and refining the way they analyzed mergers. Since 1968, the Justice Department's merger enforcement policy had changed significantly so that there was little similarity between that policy and the policy described in the 1968 Guidelines. The 1982 revisions eliminated the resulting confusion by accurately describing the Department's actual merger enforcement policy.

The 1982 Guidelines also represented an important advance in merger analysis. The 1982 Guidelines recognized that most mergers do not threaten competition and that many are in fact procompetitive and

beneficial to consumers. Moreover, the 1982 Guidelines reflected for the first time the important role that foreign competition plays in the Department's merger analysis. They thus provided a flexible analysis that proscribed only those mergers that--on the basis of sound economic and legal analysis--threaten competition. At the same time, the 1982 Guidelines set out clear standards that help businesses and their lawyers to avoid antitrust problems stemming from mergers.

Briefly stated, the 1982 Guidelines set forth the procedures by which the Department would define the relevant product and geographic markets that are the key to correct antitrust assessment of the likely competitive effects of a merger. The Guidelines described the methodology employed in assigning market shares to firms and measuring the degree of concentration in a market. They set forth certain market concentration thresholds that help determine whether or not the Department would be likely to oppose a particular merger. The Guidelines expressly cautioned, however, that the Department does not rely exclusively on numerical calculations and outlined additional considerations such as ease of entry and other relevant market factors that would be taken into account in deciding whether particular mergers should be challenged as unduly anticompetitive. The Guidelines also described the theories of liability under which non-horizontal mergers (mergers between firms that are not direct competitors in the same market) might be challenged. The 1982 Guidelines explained that only under extraordinary circumstances would the Department consider a claim of efficiencies as a mitigating factor to a merger that would otherwise be challenged. They also indicated that a stringent analysis would be applied to the so-called "failing firm" defense, a doctrine which may permit otherwise anticompetitive mergers to occur.

Our experience with these 1982 Guidelines indicated that some of its statements either were ambiguous or had been interpreted by observers in ways that were not fully consistent with the Department's actual policy. In addition, our merger analysis continued to evolve. As a result, the Department issued a revised set of Merger Guidelines in 1984 which, while reaffirming the soundness of the underlying principles of the analysis in several areas, and cleared up some ambiguity in others.

The 1984 revisions of the Merger Guidelines principally addressed five key areas: (1) market definition and measurement; (2) factors that may affect the significance of concentration and market share data in evaluating horizontal mergers; (3) the treatment of foreign competition; (4) the treatment of efficiencies; and (5) the treatment of failing divisions of healthy firms. Generally, the revisions were intended to correct any misperception that the Guidelines are a set of rigid mathematical formulas that ignore market realities and rely solely on the static view of the marketplace. The revisions also made a number of stylistic and technical changes. None of these revisions, however, indicate any fundamental change in policy from the 1982 Guidelines.

#### QUESTION:

The revised 1984 Merger Guidelines established "economic efficiency" as the key for evaluating mergers. How do you define "economic efficiency" and does the Administration plan to extend this principle to other areas of antitrust policy?

ANSWER:

One of the important features of the 1982 Guidelines was their express recognition that mergers often promote economic efficiency, increasing the competitiveness of firms and resulting in lower prices to consumers. Those Guidelines, however, contained restrictive, somewhat misleading language suggesting that the Department would explicitly consider efficiency claims only in "extraordinary cases." In practice, the Department never ignores efficiency claims. Rather, as the 1984 revisions now make clear, the Department considers and gives appropriate weight to efficiency claims in all cases. Efficiencies are not given significant weight, however, unless they are established by clear and convincing evidence. In addition, the revisions clarify that efficiencies do not constitute a defense to an otherwise anticompetitive merger, but rather are one of many factors that will be considered by the Department in determining whether to challenge a merger.

The 1984 Guidelines indicate that the Department will consider various types of efficiencies, including economies of scale, better integration of production facilities, plant specialization, and lower transportation costs. The Department also will consider general selling, administrative, and overhead expenses, although as a practical matter, these types of efficiencies are likely to be difficult to demonstrate. In addition, the Department will reject claimed efficiencies if equivalent or comparable savings can reasonably be achieved by the parties by other means. Moreover, the greater the competitive concern that a Merger raises under the 1984 Merger Guidelines, the greater will be the level of expected efficiencies that the parties must establish to dissuade the Department from challenging it.

This Administration believes that if antitrust policy is to promote competition and encourage innovation, the efficiencies associated with procompetitive business conduct must be recognized. Consistent with this approach, the Justice Department recently issued Vertical Restraints Guidelines that recognize that non-price vertical arrangements commonly entered into between manufacturers and distributors, so-called "vertical restraints," can promote economic efficiency. Those Guidelines set forth the analysis the Department employs in determining the competitive effects of such arrangements, and they state our enforcement policy concerning such practices. The Department hopes that these Guidelines will contribute to the orderly development of vertical restraints law, and thereby help reduce the uncertainty associated with enforcement of the antitrust laws in this area. A reduction in antitrust uncertainty will assist business planning and encourage the use of lawful, efficient vertical practices. The Department also takes efficiencies into account in evaluating the antitrust ramifications of a wide variety of business relationships, such as joint ventures. Furthermore, the Department seeks to promote efficiencies through its regulatory and legislative advocacy programs. For example, the Department has developed and soon will submit to the Congress legislation that would help ensure fuller protection of intellectual property rights.

In general, the Supreme Court in recent opinions has made it clear that the antitrust laws are a "consumer welfare" proscription. In other words, their objective is to foster competitive markets in order to ensure that society's resources are optimally allocated.

That objective underlies all of the Division's enforcement policy, including that embodied in the Merger Guidelines and the Vertical Restraint Guidelines.

### Joint Ventures

#### QUESTION:

The Division under your leadership also has taken a different view toward joint ventures from that of previous Administrations. Could you tell us what are the policy changes in this area?

#### ANSWER:

The Antitrust Division's views on joint ventures were set forth in a November, 1984 speech by Assistant Attorney General J. Paul McGrath before the New England Antitrust Conference. Mr. McGrath explained that in analyzing a joint venture--whether it be a marketing agreement among competitors, a proposal to build and jointly operate a plant, or some other arrangement--the Department asks three questions. First, what is the competitive impact of the arrangement on the market in which the venture operates? Second, what is the venture's competitive impact on other markets in which some or all of the coventurers compete? Third, what is the impact on competition of any ancillary restriction contained in the joint venture agreement? These considerations serve as the underlying framework for Justice Department antitrust evaluations of joint ventures.

In that speech, Mr. McGrath went on to explain that the Department generally will not challenge a joint venture's restrictions if they are reasonably tailored to bring about significant efficiencies, such as scale economies in marketing. The Department will, however, challenge collateral restraints that restrict competition but that are not reasonably required to achieve a joint venture's legitimate objectives.

The Reagan Administration worked hard to bring about enactment in 1984 of the National Cooperative Research Act. The Department believes that this Act will encourage procompetitive joint R&D ventures and discourage unjustified private suits by providing: (1) that joint R&D ventures are to be judged under the rule of reason; and (2) that if an R&D venture is reported in advance to the Justice Department and the Federal Trade Commission, its potential antitrust liability will be limited to actual, rather than treble, damages. The net result will be an increase in R&D activity and a quickening of the pace of innovation, to the benefit of the American economy.

#### QUESTION:

You have been quoted as saying that the Division's number one priority will be to push for changes in the laws governing licensing of patented inventions. What changes are you advocating and has the Administration proposed such changes to the Congress?

#### ANSWER:

The Department plans to propose legislation in the following areas:

- Requiring that the legality under the antitrust laws of patent and other intellectual property licensing arrange-

ments be evaluated under the rule of reason. Antitrust liability for such arrangements, if found, would be limited to actual, rather than treble, damages.

- Declaring that to defeat enforceability of a patent under the "patent misuse" doctrine, appropriate economic analysis under the antitrust laws must establish that the licensing practice would have an anticompetitive effect.
- Closing of the present loophole in the patent laws that permit circumvention of valid U.S. process patents by using the patented process outside the United States to produce products that are subsequently imported into the country for use or sale.
- Codification of the Supreme Court's ruling in Lear v. Adkins that a licensee cannot be estopped from challenging the validity of a patent to which it is licensed. This provision would also clarify that the licensee may be required to continue paying royalties pending final resolution of the dispute or until the license is terminated.

These important reforms of the antitrust and intellectual property laws are necessary to encourage investment in the creation and licensing of new technology by U.S. firms to improve their worldwide competitiveness. The Department expects to transmit formal proposals in these areas to the Congress in the very near future.

#### Penalties for Violations of Guidelines

##### QUESTION:

With the issuance of the revised Merger Guidelines and the new Vertical Restraints Guidelines, are you also advocating a change in the penalties for violations of those rules?

##### ANSWER:

The Merger Guidelines and the Vertical Restraints Guidelines did not deal with the antitrust penalties assessed against anticompetitive mergers or vertical restraints. Rather, those Guidelines set forth the Justice Department's method of analysis and enforcement policy in the areas of mergers and vertical restraints. The Justice Department has no present plans to advocate a change in existing antitrust penalties or remedies applicable to government enforcement actions.

Private parties who have standing may seek treble damages in connection with harm they have suffered as a result of violations of the Sherman or Clayton Acts. A number of ongoing academic research studies are examining the economic effects of private treble damage actions. Until the results of those studies become known, the Justice Department does not intend to propose legislation to alter the current treble damage remedy.



Per Se Rule on Resale Price MaintenanceQUESTION:

The conference report on the FY 1985 Appropriation Act required the Antitrust Division to report to the Committee by February 1, 1985, on the number and type of resale price maintenance cases which the Division has considered for prosecution as well as cases which the Division has actually prosecuted. Could you summarize the Division's actions in this area?

ANSWER:

During calendar year 1984 the Antitrust Division received and considered a total of 18 complaints involving possible resale price maintenance. Although the Division filed no cases during calendar year 1984 alleging resale price maintenance, it has, as of April 1, 1985, authorized five formal investigations into possible occurrences of this practice. Because these matters are the subject of pending investigations, the Department cannot publicly comment on them. In addition, the Antitrust Division currently is pursuing one other complaint that may involve resale price maintenance. The Department's policy and enforcement activities during calendar year 1984 are more fully set forth in a report to the House Committee on Appropriations, a copy of which is enclosed.



**U.S. Department of Justice  
Antitrust Division**

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*ice of the Assistant Attorney General*

*Washington, D.C. 20530*

**February 1, 1985**

**Honorable Peter W. Rodino, Jr.  
Chairman  
Committee on the Judiciary  
House of Representatives  
Washington, D.C. 20515**

**Dear Mr. Chairman:**

**Enclosed is a copy of the Antitrust Division's report I  
have sent today to the House Committee on Appropriations  
concerning enforcement of the law against resale price  
maintenance, which may be of interest to you and the other  
members of the Committee.**

**Sincerely,**

**J. Paul McGrath  
Assistant Attorney General  
Antitrust Division**

**Enclosure**



U.S. Department of Justice  
Antitrust Division

Office of the Assistant Attorney General

Washington, D.C. 20530

February 1, 1985

Honorable Jamie L. Whitten  
Chairman  
Committee on Appropriations  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

The Conference Report on H.R. 5712, P.L. 98-411, the Department of Justice's Fiscal Year 1985 Appropriations Act, states that the conferees expect the Antitrust Division and the Federal Trade Commission to report to the Senate and House Appropriations Committees by February 1 and July 1, 1985, concerning our resale price maintenance enforcement programs. This letter sets forth the enforcement policy of the Department of Justice regarding resale price maintenance and summarizes the complaints received and the investigations pursued during calendar year 1984 regarding that practice.

Shortly after I assumed my current duties, I clearly stated the Department of Justice's commitment to enforce existing legal precedent regarding resale price maintenance unless and until the Supreme Court changed its interpretation of the Sherman Act as it relates to that practice. I have repeated this position several times in testimony before both the Subcommittee on Monopolies and Commercial Law of the House Committee on the Judiciary and before the Senate Small Business Committee in February 1984, in speeches and in correspondence with members of Congress. The Supreme Court has held that resale price maintenance -- that is, an agreement between a supplier and its distributors regarding the price at which the supplier's products or services are to be resold -- is per se unlawful. In its March 1984 decision in Monsanto Co. v. Spray-Rite Service Corp., <sup>1/</sup> the Court declined to reconsider that position. The Monsanto decision, however, reiterated the important distinction between concerted and independent action and held that mere complaints from retailers to a manufacturer,

<sup>1/</sup> 52 U.S.L.W. 4341 (U.S. March 20, 1984).

followed by termination of a price-cutting retailer, do not establish an agreement to maintain retail prices. Rather, the Court held that there must be evidence that tends to exclude the possibility that the manufacturer and nonterminated distributors were acting independently in order to establish the existence of an antitrust violation. 2/

In addition to my public statements concerning the Division's policy regarding resale price maintenance, I have, on several occasions, expressed to the Division's senior staff that we will consider all complaints of vertical price fixing that come to our attention, investigate such complaints that are adequately supported, and prosecute under existing legal precedent those instances in which we find the practice to be occurring. In making these decisions, we will take into account, as we do in making all prosecutorial decisions, such factors as the factual circumstances presented, the sufficiency of the evidence, the amount of commerce involved, and the likelihood that we would prevail at trial.

During calendar year 1984, the Division received and considered a total of eighteen complaints involving possible resale price maintenance. Although the Division filed no cases during calendar year 1984 alleging resale price maintenance, we have to date authorized three formal investigations into possible occurrence of that practice. Because these matters are the subject of pending investigations, I cannot publicly comment on them. In addition, we are currently pursuing two other complaints that may involve resale price maintenance, one of which was referred to us by the FTC.

Most of the complaints we received involved disputes between retailers and their suppliers and involved threatened or actual termination of the complaining retailer. As might be expected, however, not all these complaints concerning possible resale price maintenance actually involved that practice. Some complaints involved enforcement of a non-price restraint or company policies unrelated to price and provided no basis to believe that resale price maintenance was involved. For example, two complaints involved disputes about customer or territorial resale restrictions rather than price restraints. Another complaint involved the inability of a so-called "grey market" importer to receive repair services from authorized domestic dealers and was eventually resolved as a result of a change in the authorized U.S. importer's warranty repair policy.

With respect to the remaining complaints in which resale price maintenance might possibly have been involved, there was,

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2/ Id. at 4344.

in some situations, some evidence of complaints by other distributors addressed to the manufacturer about alleged discounting practices of the complaining dealer. In none of those situations, however, did either the dealer or our own review provide sufficient basis to justify opening a formal investigation. For example, a clothing retailer complained that it had been terminated by a clothing manufacturer pursuant to an agreement between the manufacturer and other dealers because of its discounting practice. We determined not to institute a formal investigation of this complaint because the available evidence was consistent with independent action by the manufacturer and nonterminated distributors. Moreover, the FTC had already investigated the meeting of the manufacturer and its distributors which was the primary focus of the complaint and had concluded that there was not sufficient evidence to suggest that the antitrust laws had been violated. In addition, because of this FTC investigation, the Justice Department would have deferred to the FTC for any further consideration of the matter pursuant to our long-standing liaison arrangement with that agency.


Another complaint about possible resale price maintenance made by a discount clothing chain was referred to the FTC pursuant to this arrangement because that agency was already investigating the same or related complaints. Another complaint alleged that certain parties were planning to engage in a resale price maintenance scheme and that termination of an uncooperative retailer had been threatened. The information indicated, however, that the planned scheme was not put into effect and the complainant agreed to contact us if it appeared that further activity in this regard might be occurring.

The remaining complaints of possible resale price maintenance appeared to involve legitimate, independent business decisions of the suppliers rather than unlawful agreements between the suppliers and their distributors. For example, a fast-food franchisee complained to both the Division and the FTC that his franchisor had directed him to lower his price on a certain item. Our review of this complaint indicated that the franchisor was encouraging its franchisees to offer a breakfast item at a special uniform low price in order to promote that item in its advertising campaign.

To summarize, the Division received eighteen complaints about possible resale price maintenance during calendar year 1984. Each of these complaints was pursued in accordance with the clear policy of the Department to enforce existing legal precedent declaring resale price maintenance to be per se unlawful. While no cases were filed by the Antitrust Division in 1984 alleging resale price maintenance, three formal investigations have been authorized and two other complaints are still under review.

It is not surprising that relatively few complaints about possible resale price maintenance have come to our attention. This is probably because the law in this area is clear and the per se rule and treble damage remedy have strong deterrent effects. Unlike horizontal price fixing agreements, unlawful vertical pricing agreements in general cannot be effectively concealed by the parties, so that adversely affected firms will almost certainly be aware of their existence and can seek relief by instituting a private lawsuit. Indeed, at least five of the complainants have filed private antitrust suits seeking judicial resolution of their grievances. In any event, we have followed through on our commitment to pursue all complaints of possible resale price maintenance that come to our attention, and we will continue to do so in the future. If manufacturers engage in such conduct despite its clear illegality, they do so at their own risk.

I trust this information will be useful to the Committee.

Sincerely,  
  
J. Paul McGrath  
Assistant Attorney General  
Antitrust Division

## QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

Antitrust DivisionQUESTION:

Commerce Secretary Baldrige has suggested relaxing or reforming antitrust laws to allow certain mergers that will allow American firms to meet the challenges posed by the Japanese and other world competitors. Do you have any views on that?

ANSWER:

The Department has serious problems with that proposal, and the Attorney General has indicated that view in his press conference of March 15, 1985. Former Assistant Attorney General McGrath also testified before Chairman Rodino on March 13, 1985, to the effect that he did not agree with Secretary Baldrige's proposal. While stating that he shared the Secretary's concern that we must do whatever we can to foster the competitiveness of American firms seeking to compete in world markets, he also stated that he opposed the Secretary's proposal for two reasons. First, that proposal does not address the fact that both Section 1 of the Sherman Act and Section 5 of the Federal Trade Commission Act prohibit mergers and acquisitions that have likely anticompetitive effects on similar, if not the same, standards as the standard applicable to Section 7. Thus, enactment of the Secretary's proposal would not effectively change the law applicable to such transactions, but would create considerable legal and economic uncertainties for businesses and their attorneys concerning the legal standard to be applied to them.

Second, Mr. McGrath disagreed with the assumption that current enforcement of the antitrust laws is in any way handicapping American industry. Rather, he pointed out that those laws prohibit mergers and acquisitions for which there is a sound economic reason to believe will have anticompetitive consequences, such as artificially high prices. He further stated that such transactions should be prohibited, for failure to do so will make American industry less rather than more competitive both domestically and internationally and will also harm consumers. He concluded that while the Department must continue to update its analysis of mergers based on current economic thinking, gutting the antitrust laws would be a grave economic mistake. It should also be pointed out that the Department's current merger enforcement policy, as expressed in its Merger Guidelines, does rely on the latest economic thinking in this area and does fully take into account foreign competition and efficiencies that particular mergers may create.

QUESTION:

Are you in favor of allowing more research and development joint ventures between American firms?

ANSWER:

R&D joint ventures play a key role in the creation and application of new technology. They can efficiently allow innovators to share the fixed costs and spread the high risks associated with the

development of new technology, and to capture "synergies" by exchanging important research information. Equally important, they help overcome the risk that expensive-to-produce new technology will be copied and applied by "free-riding" competitors who have undertaken no research efforts and borne no costs. By binding competitors together to overcome this free-rider phenomenon, R&D joint ventures create business incentives to undertake more R&D than would otherwise occur. By promoting the development of new technologies, R&D joint ventures strengthen the ability of American firms to compete effectively in world markets.

At the urging of the Administration, Congress in 1984 passed the National Cooperative Research Act. The Department believes this Act will encourage joint R&D ventures and discourage unjustified private suits by providing that: (1) joint R&D ventures are to be judged under the antitrust rule of reason; and (2) if an R&D venture is reported in advance to the Justice Department and the Federal Trade Commission, its potential antitrust liability will be limited to actual, rather than treble, damages. The new result of the Act will be an increase in R&D activity and a quickening of the pace of innovation--to the benefit of the American economy.

QUESTION:

In your view, you believe ". . . the only goal of antitrust is economic efficiency." Would you say that we are achieving greater economic efficiencies?

ANSWER:

We believe that this Administration's antitrust policy properly allows businesses to achieve economic efficiencies. Such policy strengthens competition by allowing American firms to compete more effectively both at home and abroad. By spurring competition and encouraging innovation, an efficiency-oriented antitrust policy provides substantial benefits to the American economy. Moreover, the Supreme Court has made it clear that "consumer welfare"--another term for economic efficiency--is the proper goal of the antitrust laws.

Recent Department antitrust initiatives further the realization of economic efficiencies in several ways. The Department's revised 1984 Merger Guidelines and 1985 Vertical Restraints Guidelines clarify the Justice Department's method of analysis and enforcement policy with regard to mergers and vertical restraints. By explaining that the Department will only challenge truly anticompetitive practices, these Guidelines reduce unwarranted antitrust obstacles to efficient and procompetitive business conduct. On the legislative front, the Justice Department worked hard to obtain passage of the Export Trading Company Act of 1982 and the 1984 Joint Cooperative Research Act. These legislative enactments encourage efficiencies by removing antitrust uncertainty as to the application of the antitrust laws to American firms' use of procompetitive export trading companies and joint R&D ventures. In public pronouncements and enforcement actions, the Department stresses that the antitrust laws should be applied to enjoin genuinely anticompetitive conduct--but not to handicap efficient, procompetitive business activities. In sum, the Department believes that current antitrust policy helps maximize the achievement of economic efficiencies--to the benefit of American consumers and the American economy.



QUESTION:

I note in your statement that you revised your 1984 Merger Guidelines to better assess the competitive implications of mergers and acquisitions. Once a proposed merger has been subjected to this scrutiny and subsequently approved, do you monitor the activities of the firm to ensure that the goal of greater economic efficiency is being achieved and that it is not engaging in any noncompetitive practices?

ANSWER:

The Justice Department monitors the full range of American industries and services in order to ensure that businesses are not engaging in anticompetitive practices. When harmful anticompetitive practices are identified, the Department brings appropriate antitrust enforcement actions or seek other remedies for those situations.

Mergers often result in significant efficiencies (for example, through the integration of facilities and plant specialization) that may enhance the competitiveness of firms and result in lower prices to consumers. The Department has not, however, conducted ex post facto studies to determine the precise economic benefits of particular mergers. It is important to keep in mind that the Division is a law enforcement agency whose mission is to oppose anticompetitive mergers. We are not industrial policymakers trying to second-guess the market. If a merger is not anticompetitive, we do not, nor should we, attempt to determine whether a merger is "wise" or is likely to be an economic success. The Department instead has devoted its resources to improving the way that it analyzes mergers generally and to reviewing carefully individual proposed mergers. Our staff economists and lawyers do, however, closely examine claimed efficiencies with respect to proposed mergers we review that raise competitive concerns.

In assessing the likely competitive effect of such mergers, the Department considers the net efficiencies that are likely to result. The burden is on the merging companies to establish by clear and convincing evidence that the merger is necessary to achieve significant net efficiencies. The greater the competitive concerns that a merger raises under other standards in the Department's 1984 Merger Guidelines, the greater must be its demonstrated expected efficiencies. As the Merger Guidelines make clear, an efficiency claim is not a defense to an otherwise anticompetitive merger, but one of many factors to consider in assessing a merger's likely competitive effect.

## QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

Antitrust DivisionQUESTION:

Please provide for the record a list of mergers approved by the Justice Department in 1984.

ANSWER:

The antitrust laws prohibit mergers and acquisitions that are likely substantially to lessen competition in any line of commerce in any section of the country, and the Department challenges only those that would have such effect. The Department of Justice shares merger enforcement responsibility with the Federal Trade Commission (FTC), and the Hart-Scott-Rodino Premerger Notification Act requires the parties to proposed transactions meeting specified size thresholds to notify both the Commission and the Department and wait a specified period prior to consummating such transactions. During FY 1984, the Department received 1,339 notifications under that program. The vast majority of those proposed transactions appeared upon review to present no competitive problem and thus were not challenged by the Department or the FTC prior to consummation. Upon expiration of the waiting period, parties are free to consummate the transaction subject to other applicable state or Federal laws. While the Department and the FTC make every effort to challenge anticompetitive mergers prior to consummation, it should be noted that the agencies' failure to challenge a transaction during the Hart-Scott-Rodino waiting period does not constitute "approval" of the proposed transaction.

The Department does not know, however, which transactions for which notification was received were actually consummated. Thus, we do not have a list of consummated mergers we did not challenge in FY 1984. Moreover, the statutory scheme requires that Hart-Scott-Rodino notifications be treated confidentially, and accordingly, the Department does not publicly disclose the fact that a particular filing has been made, the dates of filings or the parties involved, or when certain statutory waiting periods will expire. The administration of the Hart-Scott-Rodino program is primarily the responsibility of the Commission, which prepares required reports and maintains statistics about the program.

FRIDAY, MARCH 29, 1985.

**DRUG ENFORCEMENT ADMINISTRATION**

**WITNESSES**

**JOHN C. LAWN, ACTING ADMINISTRATOR**

**DONALD P. QUINN, ASSISTANT ADMINISTRATOR FOR OPERATIONAL SUPPORT**

**GENE R. HAISLIP, DEPUTY ASSISTANT ADMINISTRATOR, DIVERSION CONTROL**

**JAMES J. HOGAN, CONTROLLER**

**JAMES K. WILLIAMS, BUDGET OFFICER**

**LAWRENCE G. DAVIS, BUDGET FORMULATION**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

Mr. SMITH. This morning we will consider the 1986 budget request for the Drug Enforcement Administration.

The request is for \$345,671,000. This is an increase of \$9,177,000 above appropriations enacted to date for FY 1985.

We will insert the justifications in the record at this point.

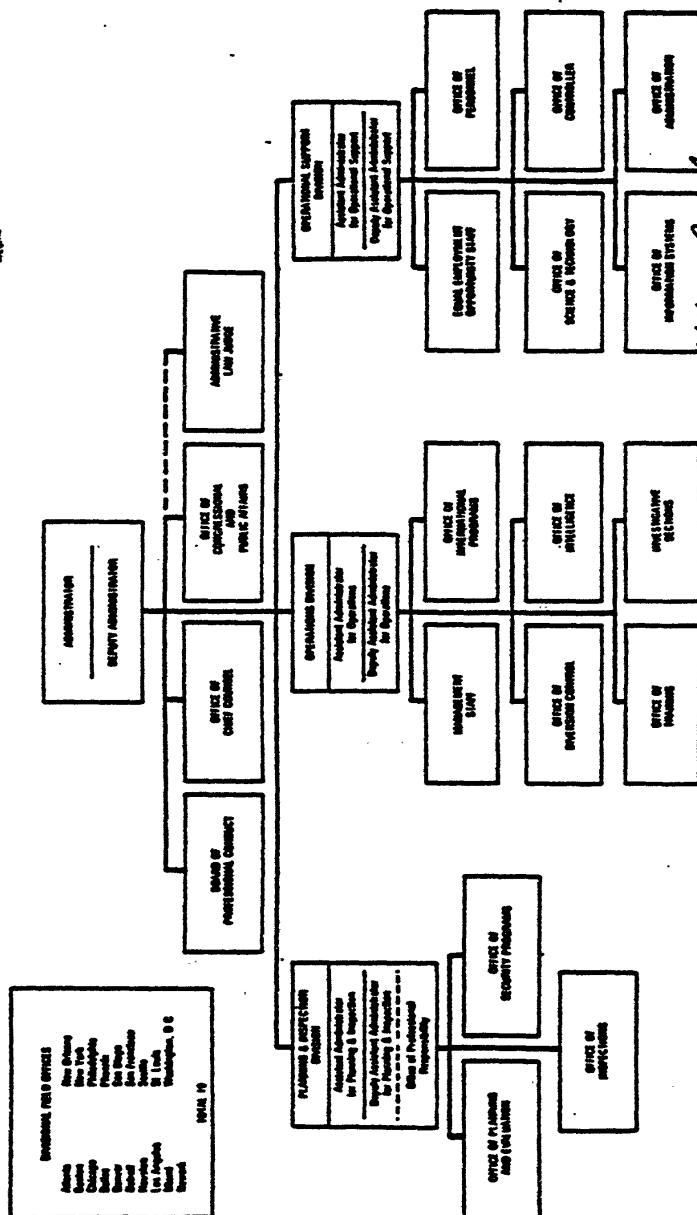
[The justifications follow:]

DEPARTMENT OF JUSTICE  
Drug Enforcement Administration  
Estimates for Fiscal Year 1986  
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**U.S. Department of Justice  
Drug Enforcement Administration**



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Drug Enforcement AdministrationSalaries and expensesSummary StatementFiscal Year 1986

The Drug Enforcement Administration (DEA) is requesting a total of \$395,671,000, 4,564 permanent positions, and 4,428 full-time equivalent workyears for 1986. This represents an increase of \$9,177,000 in funding, a decrease of 22 permanent positions, and an increase of 107 full-time equivalent workyears over the 1985 anticipated appropriation of \$386,494,000, 4,586 permanent positions, and 4,321 full-time equivalent workyears. These amounts include a program decrease of \$2,225,000, 22 positions, and 22 FTE workyears, and net uncontrollable increases of \$11,402,000 and 123 FTE workyears.

President Reagan has stated his intention to permanently eliminate organized crime as a force in the U.S. economy and as a threat to domestic peace and safety. Drug trafficking, with its enormous profits, is an attractive endeavor for both traditional and non-traditional organized crime. DEA's mission supports the President's goal by ensuring that drug traffickers are apprehended, their drugs removed from the marketplace, and their profits and financial assets confiscated. Our existing programs have had success. Organizational changes, management improvements, expanded DEA/FBI investigations and cooperation, enhanced cooperation with other agencies, and State and local assistance have further contributed.

Despite these successes, the resources of criminal enterprises have vastly increased during the past several years.

The DEA 1986 request continues the momentum of the drive against organized crime and drug trafficking. In doing so, DEA continues to stress the Organized Crime Drug Enforcement (OCDE) effort, the elimination of production in source countries, and participation in the administration's intensified interdiction efforts.

This request will provide for the ongoing operation of DEA programs and the recognition of resources required for new initiatives.

Enforcement of Federal Law and Investigations

The Domestic Enforcement program's goal is to reduce the availability of illicit narcotics and dangerous drugs in the domestic marketplace, and to disrupt the drug traffic through the arrest and prosecution of major violators and the removal of their financial assets.

The Foreign Cooperative Investigations program objectives are to motivate and assist foreign countries in the development of drug law enforcement and auxiliary programs to reduce the supply of illicit drugs produced, processed, and destined for ultimate delivery to the United States. DEA provides expert advice, authorized investigative and intelligence sharing, and training in those foreign areas deemed most critical to the reduction of drugs destined for the U.S. These activities encourage the development and implementation of substantive intergovernmental enforcement and intelligence exchanges. The on-going base program will be continued.

The Diversion Control activity encompasses the investigation and prevention of the diversion of legitimately produced controlled substances. This includes (a) registering legitimate manufacturers and dispensers of controlled drugs, (b) determining points of diversion into the illicit market, (c) conducting targeted investigations of major violators, (d) conducting periodic investigations of manufacturers, wholesalers, and import/exporters, (e) investigating pre-registrants, (f) scheduling and classifying controlled drugs, (g) authorizing imports and exports, (h) establishing manufacturing quotas, and (i) providing assistance and guidance to the states. Through this program, DEA has been instrumental in persuading foreign governments to control the production and distribution of dangerous pharmaceuticals. The on-going base program which includes resources requested in the 1985 supplemental to administer the Administrative Revocation provisions of the 1984 Comprehensive Crime Control Act, will be continued.

The State and Local Assistance program addresses cooperative law enforcement activities with state, county, and local authorities which benefit the Federal drug enforcement program. Included under this program are training programs for law enforcement officers and forensic chemists, laboratory support for law enforcement agencies, and support for law enforcement activities of the Federal/State and local task forces. The ongoing program will be continued.

#### Intelligence

Activities include the collection, analysis, and dissemination of drug and drug related information in support of DEA, other Federal, State, and local efforts to interdict or suppress the illicit movement of drugs. This provides a systematic approach to the identification of traffickers and the assessment of their vulnerabilities. It also supplies information for policy determination and enforcement strategy development. An additional dimension of this program is the exchange of criminal drug information between DEA and its foreign counterparts. The on-going base program will be continued.

#### Research and Engineering

This research program supports the enforcement and intelligence functions through the development of specialized covert equipment, operational engineering, and scientific support.

#### Support Operations

This program provides (a) laboratory analysis of evidence and expert testimony in support of investigation and prosecution of drug traffickers, (b) training programs for all levels of DEA operational personnel, (c) maintenance of an effective technical equipment program, including aircraft operations, (d) provision of AIP and record management systems, and (e) the provision of responses to requests made under the Freedom of Information and Privacy Acts.

#### Program Direction

This program provides the overall management and direction of DEA. Included in this program is (a) the development of coordinated and definitive policy, program analysis and planning, (b) budget preparation and financial management, (c) congressional and public affairs, (d) legal counsel, and (e) administrative support functions. The base program will be continued, but with the proposed reduction of 22 positions and \$2,225,000 in compliance with the Administration's decision to reduce management and administrative-type functions throughout the Government.

Drug Enforcement AdministrationSalaries and expensesProposed Authorization Language

The Drug Enforcement Administration is requesting the following authorization language:

Annual Legislative Proposal

For the Drug Enforcement Administration: \$345,671,000 of which not to exceed \$1,200,000 for research shall remain available until expended and \$1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1987.

Permanent Legislative Proposal

The Drug Enforcement Administration is authorized to make payments from its appropriation for:

- (a) hire and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year;
- (b) payment in advance for special tests and studies by contract;
- (c) payment in advance for expenses arising out of contractual and reimbursable agreements with state and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503(a)(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2));
- (d) expenses to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;
- (e) payment of rewards;
- (f) publication of technical and informational material in professional and trade journals and purchase of chemicals, apparatus, and scientific equipment;
- (g) necessary accommodations in the District of Columbia for conferences and training activities;
- (h) acquisition, lease, maintenance, and operation of aircraft;
- (i) contracting with individuals for personal services abroad, provided that such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;



- (j) purchase of firearms and ammunition and attendance at firearms matches;
- (k) payment for tort claims against the United States when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad;
- (l) research related to enforcement and drug control, to remain available until expended;
- (m) payment of travel and related expenses for immediate family members of employees, including expenses incurred for specialized training and orientation in connection with a transfer to Puerto Rico, other territories and possessions of the U. S. and posts outside the United States.

"Drug Enforcement Administration Undercover Operations"

- (a) With respect to any undercover investigative operation of the Drug Enforcement Administration which is necessary to carry out its function--

- (1) sums authorized to be appropriated to the Drug Enforcement Administration may be used for purchasing property, buildings, or other facilities and leasing space within the United States, the District of Columbia, and the Territories and possessions of the United States without regard to 31 U.S.C. 1341, Section 3722(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third designated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), 31 U.S.C. 3324, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 396; 41 U.S.C. 254(a) and (c));
  - (2) sums authorized to be appropriated for the Drug Enforcement Administration may be used to establish or acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of 31 U.S.C. 9102;
  - (3) sums authorized to be appropriated for the Drug Enforcement Administration, and the proceeds from such undercover operations, may be deposited in banks or other financial institutions without regard to the provisions of 18 U.S.C. 648 and 31 U.S.C. 3302; and
  - (4) the proceeds from such undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of 31 U.S.C. 3302; only upon the written certification of the Administrator of the Drug Enforcement Administration (or by a person designated to act for the Administrator in his absence) with prompt notification of the Attorney General or his designee thereafter, that any action authorized by this section is necessary for the conduct of such investigative operation. Such certification shall continue for the duration of the undercover operation without regard to the fiscal years.
- (b) As soon as the proceeds from an undercover investigative operation authorized under this section are no longer necessary for the conduct of such operation, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

- (c) If a corporation or business entity established or acquire as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over \$150,000 is to be liquidated, sold, or otherwise disposed of, the Administrator of the Drug Enforcement Administration, as much in advance as the Administrator or his designee determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury as miscellaneous receipts.
- (d) (1) Upon completion of an undercover investigative operation authorized by this section, the Administrator of the Drug Enforcement Administration shall conduct detailed financial audits of these operations and--
- (A) report the results of each audit in writing to the Attorney General, and
  - (B) report annually to the Congress concerning these audits.
- (2) For the purposes of paragraph (1), the terms "undercover investigative operation" and "undercover operation" mean any undercover operation of the Drug Enforcement Administration--
- (A) in which the gross receipts exceed \$150,000, and
  - (B) which is exempt from 31 U.S.C. 3302 or 31 U.S.C. 9102.

Drug Enforcement AdministrationSalaries and expensesJustification of Proposed Changes in Appropriation Language

The 1986 budget estimates include the proposed changes in the appropriation language listed and explained below. New language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses

For necessary expenses of the Drug Enforcement Administration, including not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed [five hundred seventeen] passenger motor vehicles of which four hundred eighty-nine are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; [329,989,000], Five hundred fifty-two of which not to exceed \$1,200,000 for research shall remain available until expended and, \$1,700,000 335,671,000 for purchase of evidence and payments for information shall remain available until September 30, [1986], 1987.

(Reorganization Plan No. 2 of 1973; Reorganization Plan No. 1 of 1968; 21 U.S.C. 801-966 as amended; 40 U.S.C. 304; 41 U.S.C. 11(a); 49 U.S.C. 783; Department of Justice and Related Agencies Appropriation Act, 1985; additional authorizing legislation to be proposed).

Explanation of change

1. In addition to the ongoing replacement program (489 replacement vehicles) the budget request provides for 63 passenger motor vehicles for new diversion investigator positions requested in the 1986 request.
2. The second change provides for a limited amount of current year funding for purchase of evidence and payment for information (PG/PI) to be available for a two-year period, until September 30, 1987.

**Post Information Administration**  
**Salaries and expenses**  
**Summary of 1965 Changes**  
**(Millions of Dollars)**

Activity/Program	1965 President's Request		Congressional Appropriation		1965 Applicable Budgetary		1965 Applicable Budgetary		1965 Applicable Budgetary		1965 Applicable Budgetary	
	Est.	Act.	Est.	Act.	Est.	Act.	Est.	Act.	Est.	Act.	Est.	Act.
1. Bureau of Federal Law Enforcement												
a. Domestic enforcement	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
b. Federal Bureau of Investigation	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
c. Domestic cooperative investigations	21	21	21	21	..	..	..	..	..	..	21	21
d. Domestic cooperative investigations	21	21	21	21	..	..	..	..	..	..	21	21
e. Domestic cooperative investigations	21	21	21	21	..	..	..	..	..	..	21	21
f. Domestic cooperative investigations	21	21	21	21	..	..	..	..	..	..	21	21
2. Intelligence												
a. Intelligence	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
b. Intelligence	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
c. Intelligence	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
d. Intelligence	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
e. Intelligence	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
f. Intelligence	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
3. Research and engineering												
a. Research and engineering	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
b. Research and engineering	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
c. Research and engineering	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
d. Research and engineering	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
e. Research and engineering	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
f. Research and engineering	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
4. Program division												
a. Program division	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
b. Program division	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
c. Program division	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
d. Program division	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
e. Program division	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
f. Program division	1,411	1,378	1,410	1,405	..	..	..	..	..	..	1,411	1,395
Total	4,130	4,087	4,129	4,084	-4	-5	-4,086	..	..	..	4,130	4,087

**Relation of Analysis of Changes from 1962 Appropriation's Request**

**Congressional Appropriation's Action**

The amount of \$4,087,000 represents a reduction of \$42,000 from the amount requested by the President in 1965. The Standard Level for Changes (SLC) reduction is \$42,000. The amount of \$4,087,000 represents a reduction of \$42,000 from the amount requested by the President in 1965. The Standard Level for Changes (SLC) reduction is \$42,000. The amount of \$4,087,000 represents a reduction of \$42,000 from the amount requested by the President in 1965. The Standard Level for Changes (SLC) reduction is \$42,000.

**Applicable Budgetary**

1. The applicable request for \$4,130,000 and 1965 appropriations for the Administration's program as included in the Congressional Order Control Act of 1965, signed by the President on October 17, 1965.

2. The pay request provides \$4,087,000 to meet increased pay requirements. (Executive Order 12056 signed December 28, 1965)

**Executive Division**

In accordance with Section 304 of the Budget Enforcement Act, \$42,000 is proposed for reallocation in the areas of public affairs, printing and publishing, and travel and transportation.

**Summary of Requirements**  
**(Dollars in thousands)**

	Perma. Fds.	Wt	Amount
Adjustment to base:			
1985 as enacted.....	\$1,130	\$1,282	\$329,988
1985 pay supplemental.....	...	...	1,682
1985 Crime Control Act supplemental.....	156	39	2,700
1985 proposed rescission.....	...	...	-876
1985 appropriation anticipated.....	\$1,585	\$1,321	338,194
Savings due to management initiatives.....	...	...	-5,678
Uncontrollable increases.....	...	...	19,057
Decreases.....	...	129	-1,977
1986 base.....	\$1,506	\$1,450	371,667
1986 base.....	...	...	371,667

1. Enforcement of Federal law and investigations:
  - a. Domestic enforcement.....
  - b. Organized Crime Drug Enforcement.....
  - c. Foreign cooperative investigations.....
  - d. Diversion control.....
  - e. State and local assistance.....
2. Intelligence.....
3. Research and engineering.....
4. Support operations.....
5. Program direction.....

Total.....

[illegible]



# Drug Enforcement Administration

## Salaries and expenses

### Justification of Program and Performance

#### Activity Resource Summary (Dollars in thousands)

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Activity: Enforcement of Federal Law and Investigations								
Subactivity: Domestic Enforcement								
Domestic enforcement.....	1,817	1,798 \$124,678	1,817	1,798 \$125,391	1,817	1,798 \$125,391	...	...

Long-Range Goal: To reduce the supply of illicit drugs to levels where our society and institutions can cope reasonably with the consequences of drug abuse.

#### Major Objectives:

To enhance coordination with the FBI through joint field operations, training, linkage of intelligence data bases and systems, intensified exchange of management and procedural techniques, and to continue support of and participation in the Organized Crime Drug Enforcement Task Force program.

To use existing liaison mechanisms with IRS, Customs and the Coast Guard to develop specific proposals for enhanced coordination, more efficient mechanisms for the exchange of information and the more effective utilization of intelligence and personnel.

To seriously disrupt or eliminate major drug trafficking organizations, and thereby reduce the drug flow, by maintaining continuous investigative pressure leading to arrest, prosecution, and conviction of major drug dealers as well as seizure of all drug related assets.

To maintain overall enforcement pressure on the major heroin trafficking organizations to ensure that heroin supplies are held at a level which minimizes the abuse to society.

To maintain investigative emphasis in the dangerous drug area, in particular the traffic in clandestinely manufactured PCP, methqualone and LSD, and reduce the retail availability of the substances as measured by reported drug injuries and deaths.

To increase the Federal Government's role against violent crime by supporting, within resource availability, local drug enforcement, and intelligence operations wherein violent crimes surface as collateral violations to ongoing drug investigations.

To maintain investigative pressure in coordination with the U.S. Coast Guard, Customs, and the FBI on the cocaine, marijuana and counterfeit methamphetamine traffic entering the CONUS from South America via the Southeastern states, particularly Florida, to prevent or reduce any significant increases in drug availability, associated violent crime, or economic impact resulting from massive illicit money flow.

To utilize to the maximum extent possible assistance from the U.S. military forces in providing intelligence related to the growing, storage, and transportation of illicit drugs.

To further develop DEA's in-house expertise in banking laws and regulations and international monetary operations; to increase trafficker asset removals over prior years through civil and criminal forfeiture; and to expand liaison activities with the banking community, real estate industry, etc.

To develop more efficient interagency liaison mechanisms with Customs, IRS, the Federal Reserve Board, etc., to facilitate financial investigations of drug traffickers.

To increase DEA expertise in the use of technical equipment by increasing agent awareness of technical investigative tools and innovative approaches available.

To enlist the active participation of State and local governments and law enforcement agencies in the national effort to stop illicit drug production and trafficking, and to continue to actively support State and local jurisdictions participation in the Domestic Cannabis Eradication/Suppression Program.

To develop two week training schools which will provide in-depth instruction to State and local officers responsible for marijuana detection and eradication and to increase the amount and quality of intelligence provided to State and local governments so that they can execute their marijuana control responsibilities.

To establish clandestine laboratory task forces to enlist the aid of State and local police in establishing a comprehensive Precursor Control program.

To encourage the development of multi-state efforts in states which share common drug trafficking problems promoting the development of strategies and programs and expertise which result in a more comprehensive and unified attack against drug trafficking.

Base Program Description: The national problem addressed by this decision unit stems from the consequences of widespread abuse of controlled substances. The social harm inflicted by the abuse of drugs includes deaths, injuries and inordinate strains placed on our institutions. Criminal elements profit handsomely from drug traffic which contributes huge amounts of untaxed money, into either organized crime coffers or investments in legitimate enterprises. These all have a major corrupting influence on our communities. Drug trafficking also impacts on the national economy through the flow of U.S. capital to foreign countries. Illicit drug distribution has also contributed to making our communities physically unsafe because of concomitant drug-related crime and violence.



The major thrust of the Domestic Enforcement program is the elimination or immobilization of the highest echelons of drug trafficking organizations. This strategy is based on extensive empirical data which indicates that the greatest impact domestically on illicit drug flow can be achieved at these levels and that this represents the most cost-effective utilization of resources. Heroin remains one of DEA's major priorities because of its virulent impact on national health and crime; although the massive infusion of cocaine and marijuana entering the Southeastern sector of the United States must also be addressed as a major priority concern of drug enforcement.

DEA conducts enforcement operations by utilizing the following investigative methods:

- Undercover operations.
- Electronic surveillance.
- Development of confidential sources of information.
- Emphasis on use of the various conspiracy statutes and the more sophisticated statutory tools such as the Continuing Criminal Enterprise (CCE) provision, tax laws and Racketeer Influenced Corrupt Organizations (RICO).
- Employment of Special Enforcement Operations (SEO) for investigative concentration on major trafficking organizations.
- Financial investigative efforts involving the illicit international and national money flow related to drug trafficking. Extensive coordination with the Internal Revenue Service (IRS) and Federal Bureau of Investigation (FBI).
- Precursor investigative and liaison measures aimed at identifying and immobilizing clandestine laboratory operations.
- Full cooperation between DEA, U.S. Customs Service, Immigration and Naturalization Service (INS), and the U.S. Coast Guard in border and off-shore interdiction activities.
- Coordination and cooperation with State and local drug law enforcement agencies in the development of cooperative cases and the exchange of investigative/intelligence information.
- Utilization of special reverse undercover operations where special agents may act as a drug seller.
- Establishment of proprietary business operations which offer to sell precursor chemicals to illicit drug manufacturers.

Investigative activities fall into three major categories based on the source of the investigation: DEA-initiated investigations, referral investigations stemming from information provided by other Federal law enforcement agencies such as the U.S. Customs Service or the Immigration and Naturalization Service, and cooperative investigations developed jointly with State and local police authorities. With respect to referral-type investigations, while DEA has the principal responsibility in drug offense cases, as a practical matter, DEA exercises only limited control over drug priorities in this area. These cases emanate predominantly from border seizures and the standards established for prosecution by the several United States Attorneys which may vary considerably.

The major portion of the enforcement effort of the field offices is employed in substantive DEA initiated case development. The total effort involves a mix of substantive and conspiracy cases. Conspiracy prosecutions develop most often through exploitation and extension of evidence and witnesses developed in the substantive cases. DEA Interoffice and interagency cooperation and investigative assistance are emphasized and maintained at optimum levels.

In selected priority trafficking situations, which are either interoffice or international in nature, Special Enforcement Operations (SEO) organizational, operational and management procedures are used in the application of investigative resources. The SEO approach stresses economy of force, mobility, speed, and flexibility in responding to high level drug trafficking organizations. SEO's receive additional

management and funding or manpower resources. These high-level investigations will be undertaken on a case-by-case basis when it is determined by DEA management that intelligence or evidence points to probable success commensurate with resources to be expended. Through demonstrated success of these SBO investigations, DEA aims to create an environment in which there is a certainty of punishment of major drug traffickers under the applicable Federal statutes, as well as extensive immobilization of their drug distributing organizations.

This program continues to focus ongoing efforts on financial investigations involving international money flows and drug traffickers' assets. These investigations, involving close cooperation between DEA, the U.S. Customs Service, the Internal Revenue Service, and the FBI are aimed at important insulated violators, who direct, control, and profit enormously from drug trafficking. Assets emanating from investments of these drug related profits are vulnerable to seizure and forfeiture. This innovative investigative technique is an effective tool in reducing capital assets of the traffickers; thereby disrupting or immobilizing organizations with a concomitant reduction in the flow of drugs.

Conventional and proven drug enforcement methods such as informant development, undercover infiltration and purchases of information and drug evidence continue to be used as tools in the development of both substantive and major conspiracy investigations. These activities provide for acquisition of evidence, which among other things, reinforces the credibility of testimony of government witnesses.

Another major priority of the Domestic Enforcement program is the immobilization of domestic clandestine laboratory operations and the maintenance of a chemical precursor control program. In the past year, the rescheduling of POP, the scheduling of P-2-P and the controls placed on pipeline have resulted in more effective control of the illicit manufacture of POP, methamphetamine, and amphetamine. This program will continue to receive a high priority within the decision unit activities.

Full cooperation between DEA, U.S. Customs Service, Immigration and Naturalization Service, and the U.S. Coast Guard in border interdiction activities is being maintained. DEA continues to support the border interdiction function through: (1) immediate referral of smuggling information; (2) cooperative investigations where appropriate; and (3) coordination of defendant debriefing techniques in cases not acceptable for Federal prosecution.

Although the Organized Crime Drug Enforcement (OCDE) Task Forces are not programmatically within this decision unit, coordination and cooperation with OCDE investigative personnel is an essential element of the Domestic Enforcement program. A significant number of DEA special agents are assigned to the OCDE Task Forces ensuring optimum intelligence exchange as well as close communication with ongoing investigations.

With regard to DEA computer capabilities, the Narcotics and Dangerous Drugs Information System (NDDIS) provides to all domestic offices a 24 hour/day 7 day/week service as well as to over 20 overseas offices. This information retrieval capability permits more timely response to investigations of a particularly time-sensitive nature. The DEA intelligence analysis system, PATWINDER, is utilized extensively for conspiracy analysis by agents engaged in SBO's and other major investigations.

In concert with the DEA computer capabilities for retrieval of information and intelligence, the following modes of communication are utilized to provide information quickly, with optimum security, to world-wide DEA offices.

**Secure Voice:** Cryptographic secure voice devices located at DEA Headquarters to provide intelligence and enforcement elements access to the United States intelligence community.

**Speech Privacy:** Commercially-available speech privacy devices to offer a deterrent against monitoring of phone calls.

**Facsimile:** A system which includes 143 terminals in field offices, compatible with other government agencies, and commercial firms with similar equipment.

**DEA Secure Teletype Systems (DATS):** A leased line network that provides the capability to transmit classified and sensitive message traffic in support of the DEA mission domestically and through the Headquarters telecommunications center to foreign offices via Department of Defense Automatic Digital Network (AUTODIN) access channels and the State Department's Telecommunications System.

The DEA radio communications system includes: portable radios; radios in all motor vehicles, aircraft, and boats; as well as radio base stations geographically positioned to ensure optimum communications in support of enforcement operations.

**Accomplishments and Workload:** Since 1973, DEA has been the lead U.S. agency responsible for investigating U.S. drug law violations. It is the sole U.S. agency authorized to investigate drug trafficking overseas. It is also the only agency with authority to regulate and monitor the illicit drug manufacturing distribution system. As the lead agency for drug enforcement, DEA plays a critical role in this Administration's campaign against organized crime and drug trafficking. DEA has maintained close working relationships with other Federal agencies, including the FBI, U.S. Customs Service, U.S. Coast Guard, Navy, Air Force, Bureau of Alcohol, Tobacco, and Firearms (BATF), and the Internal Revenue Service, (IRS), with numerous State and local agencies, and with foreign enforcement entities.

In 1984, DEA averaged approximately 1,000 arrests and 700 convictions per month. Heroin seizures increased in 1984 to approximately 682 pounds from 664 pounds in 1983. Seizures of cocaine increased by 34 percent or 5,500 pounds. Marijuana seizures increased by more than 750,000 pounds in 1984, this was about a 33% increase compared to 1983. Close to 4 million plants were destroyed in 1983 by DEA-assisted local law enforcement agencies. In 1984, 12.98 million domestic marijuana plants were destroyed. During 1983, 182 clandestine laboratories were seized, including 92 methamphetamine and 33 POP laboratories. The 1984 laboratory seizures should be reduced somewhat because of the effectiveness of the program.

FBI support of our enforcement mission has already resulted in impressive teamwork. By the end of 1984, over 40 percent of the FBI narcotics and dangerous drugs related investigations were joint DEA/FBI cases. Currently, there are nearly 775 joint investigations in which the FBI is lending its expertise in financial and organized crime investigations. The number of DEA Title III wiretaps projected for 1984 is about 80, with over 50% of these operations conducted jointly with the FBI. The FBI has participated extensively in wiretap operations. DEA and FBI agents have also been cross trained to enhance their effectiveness in the field. All FBI agents have been exposed to training in narcotics investigations. Of these agents, approximately 600 have received specialized narcotics training. DEA agents have also received training regarding the FBI mission and services.

Along with the increase in involvement of the FBI, another major development in the drug enforcement effort has been the participation of the military in drug intelligence operations. DEA is only beginning to realize the results of this new resource. In conjunction with the South Florida Task Force and related operations, the Navy E2C's (hawk) aircraft provide detection capability and the Army's Cobra

helicopters have been utilized as chase aircraft. The Navy has been regularly and increasingly relaying suspect vessel information to EPIC for evaluation and action. The Navy has provided direct assistance to the U.S. Coast Guard and participated in boarding and taking custody of suspect vessels. Coast Guard crews are also onboard some Navy vessels. DEA anticipates that military assistance will play an increasing role in confronting and containing illicit drug smuggling on the high-seas.

DEA has both domestic and foreign drug enforcement responsibilities. Because of our mission, we also have offices located throughout the Caribbean in San Juan, Puerto Rico; Kingston, Jamaica; Nassau, Bahamas; and Santo Domingo, Dominican Republic. At the present time DEA's Miami Field Division staffs the DEA elements of the Florida Joint Task Group and the National Narcotics Border Interdiction System (NABIS). Initial DEA staffing of the Joint Task Group was comprised of 73 Special Agents, 4 Intelligence Analysts and 6 Clerical/Support personnel.

Since March 1982, DEA has participated in the South Florida Task Force along with Customs, BATF, INS, and the Coast Guard. This task force established a coordinated, multi-agency attack against the marijuana and cocaine traffic in the Caribbean. DEA and Customs participate in this program under a Florida Joint Task Group which conducts drug smuggling investigations, as well as financial investigations in the State of Florida. For the period March 1982 to June 1984, these efforts have resulted in 2,570 arrests, 1,453 drug seizures, and a total of \$27,271,313 in asset seizures.

In March 1982, DEA, through its office at the American Embassy, Nassau, proposed to the Bahamian Government a collaboration of law enforcement agencies of the United States and those of the Bahamas and Turks and Caicos Islands. This operation, with the code name "BMT" (Bahamas/Mexican/Turks and Caicos Islands), employed DEA, U.S. Coast Guard and U.S. Customs aircraft to transport Bahamian law enforcement agents under Bahamian supervision on raids on drug and fuel caches in the islands. Turks and Caicos law enforcement officers operated similarly in their islands, since their participation in this operation was designed to provide a coherent and comprehensive plan to interdict drugs in the Bahamas, Turks and Caicos destined for the United States. Originally this operation was to last for ninety days. However, due to its success, BMT has been continued.

The operational objectives of BMT are designed to:

- Disrupt the flow of marijuana, cocaine and methamphetamines transitting the Turks and Caicos Islands and the Bahamas enroute from South America to the United States.
- Provide the Bahamian Defense Force with timely intelligence.
- Identify major smuggling organizations through identification of aircraft and vessels engaged in smuggling.
- Provide U.S. Coast Guard and U.S. Customs with timely information on aircraft and vessels engaged in smuggling.
- Identify U.S. citizens residing in and transitting the Islands.
- Develop cooperating individuals in the Islands who can assist in the enforcement mission.
- Identify aircraft having illegal fuel tanks for immediate grounding by PAA inspectors.
- Train Island police in the areas of narcotic enforcement and interdiction.
- Provide for single sideband radio communications among all enforcement personnel participating in BMT.

In the twenty-eight months of operation, the deployment of police of the Bahamas and Turks and Caicos by U.S. aircraft has had a significant impact on the drug trade. Smuggling has not ceased, but its character has changed. The trafficker's initial reliance on maritime smuggling has shifted from larger boats to smaller craft. Even in aircraft smuggling, the emphasis has been transferred from larger to smaller planes. The number of "entrepreneurs" or self-employed traffickers has grown. Some of these entrepreneurs have been persistent and innovative in their tactics which has required a change in strategy from time to time.

The most consistent method of operation has involved the flight of trafficker aircraft which leave Colombia and Jamaica and are observed by U.S. radar. U.S. Customs aircraft identify and pursue these planes to dropzones in the western Bahamas. DEA's task has been to deliver Strike Force police at the time and point of delivery. This is difficult under the best of circumstances. The original helicopters made available to Operation BAT were limited in range and ability to fly at night. The U.S. Coast Guard was requested to assist because of the endurance and navigational systems of the Coast Guard aircraft. Currently 2 U.S. Air Force helicopters are being utilized along with DEA aircraft.

The following data represents the cumulative statistics for Operation BAT for the period April 1, 1982 through July 1, 1984:

<u>OPERATION BAT</u>	
<u>Arrests:</u>	170
<u>Drug Seizures:</u>	
Cocaine	9,916 lbs.
Marijuana	313,303 lbs.
<u>Non-Drug Seizures:</u>	
Vehicles	48,000
Vessels	\$1,688,510
Aircraft	\$7,081,500
Firearms	\$6,275
Radio Equipment	\$4,500

#### Heroin Traffic

Southwest Asian (SWA) heroin continued to dominate the market through June, 1984. The availability of Mexican and Southeast Asian-source heroin has increased. Overall heroin abuse and availability appears to have increased since October of 1983.

#### Cocaine Traffic

Current indicators of cocaine abuse and availability suggest the continued high levels reported during 1983. There has been an oversupply of cocaine, with a consequent decline in wholesale prices in selected cities, and recent data show that the decline in price is beginning to show at the retail level.

During 1983, DEA and other Federal law enforcement agencies confiscated more than 20,000 pounds of cocaine. During the first six months of 1984, seizures totalled 4,959 kilograms. This is the highest aggregate volume of cocaine ever seized during a one-year period. Cocaine arrests totalled 4,853. Nine hundred and eighty-four of these individuals were Class I or II violators. More than 50% of all defendants arrested by DEA on cocaine charges were in Class I or II cases.

These seizure and arrest statistics have both negative and positive implications. On the negative side, the statistics confirm an unprecedented volume of available illicit cocaine in the U.S. along with the proliferating million of U.S. distributors. Falling cocaine prices in late 1983 and 1984 also portend an expanding U.S. consumer group in 1984. While coordinated U.S. drug enforcement achievements have escalated dramatically in 1983, foreign supply reduction efforts have not kept pace with U.S. programs and consequently U.S. cocaine availability continues to escalate. Throughout 1983, there was no significant coca eradication in major coca source nations, despite Colombia's efforts to control the importation of ether, a significant component in the processing of cocaine. The control of ether has resulted in a shift in cocaine processing to other areas, including South Florida, Venezuela, and Brazil.

On a more positive note, U.S. drug enforcement programs and strategies are becoming more solidified and coordinated. DEA intelligence and enforcement results are unparalleled. Political and public support in the U.S. and abroad against the cocaine trade is increasing. International investigative cooperation, particularly among coca source and transit nations, is similarly expanding. Colombia is now extraditing major drug traffickers to the United States for trial.

U.S. drug operations are becoming significantly more sophisticated, buttressed by high level U.S. political, military, diplomatic and budgetary support. In short, U.S. drug law enforcement efforts against cocaine in 1983 have been impressive and have sent a clear signal to source nations concerning the U.S. commitment to international drug control.

In January 1984, the DEA and FBI indicted 53 defendants in four Federal Judicial Districts out of Operation Southern Comfort. Since this time a total of 39 defendants have been arrested. These indictments are based on the seizure of 3,000 pounds of cocaine from the Harold Rosenthal Organization. Rosenthal directed the operation from Colombia following his escape from a Federal prison in Tennessee in 1981. In October 1984, all of the defendants except one were convicted after a lengthy trial in the Northern District of Georgia.

Operation Padрино was initiated in April 1983, in Guadalajara, Mexico for the purpose of investigating and immobilizing one of the major Colombian/Mexican cocaine distribution networks currently in existence. The investigation presently directed and supervised by OO is multinational and interdivisional involving at least four foreign countries and eight DEA divisions. To date, the successes of Operation Padрино are that the organization is undergoing U.S. currency forfeiture proceedings totaling \$15,338,766 and facing \$1,387,000 in property/asset forfeiture in addition to a \$25,987,000 IRS jeopardy assessment. Law enforcement officers have seized 3,563 pounds of cocaine attributed to the organization and arrested 13 of its members.

Operation Chem Con was initiated as an innovative and logical outgrowth of "Operation Steeple", an SRIP instituted in 1980 by the Bogota Country Office.

By way of background, Operation Steeple's objective was to identify the major illicit distributors of precursors utilized for the clandestine manufacture of cocaine hydrochloride (HCl). As the SRIP matured and a sufficient data base was acquired to disclose illicit distributors and the enormous quantities of ether being imported to Colombia, Operation Chem Con was established as the logical next step in the institutionalized tracing of precursors to illicit markets.

The primary objective of Operation Chem Con is to track ether from principal international manufacturers, wholesalers and retailers to clandestine cocaine HCl laboratories in the United States and abroad. To accomplish the objectives of Chem Con, it was essential to

secure the cooperation of ether manufacturers, wholesalers, and retailers, analyze the data provided by these companies, and seek voluntary restriction of ether sales and/or place tracking devices in the ether containers and follow shipments to their final destination.

Since its inception, Operation Chem Con has monitored over 40 shipments representing thousands of metric tons of ethyl ether, sixteen thousand 55 gallon drums have been seized and destroyed in nine countries at a loss of approximately \$5 million in purchase cost to traffickers. Additionally, when the conversion ratio of ether to cocaine HCl is considered, in excess of 186,000 kilograms of cocaine was not produced as a result of Operation Chem Con.

In March 1984, intelligence obtained through Operation Chem Con efforts resulted in the Colombian National Police Special Anti-narcotics Unit raiding seven cocaine laboratories in the southern part of Colombia, and seizing ten tons of cocaine and arresting 41 defendants.

Operation Chem Con is continuing with broadened efforts and results anticipated in calendar year 1985.

Program measures include the following:

Item	Estimates		
	1983	1984	1985
<b>Investigative Work Hours by Class of Case:</b>			
Class I.....	1,597,551	1,763,703	1,845,000
Class II.....	211,434	237,910	250,000
Class III.....	804,631	841,364	862,000
Class IV.....	43,092	42,189	43,000
Total.....	2,756,715	2,945,166	3,000,000
<b>NSA Initiated Arrests by Class and Cases:</b>			
Class I.....	4,101	4,582	4,600
Class II.....	1,103	1,022	1,030
Class III.....	1,950	1,771	1,800
Class IV.....	589	445	470
Total.....	7,753	7,820	7,900
<b>Federal Referral Arrests:</b>			
NSA Cooperative Arrests.....	1,109	1,086	1,100
Total Domestic Enforcement Program Arrests.....	1,438	1,725	1,750
Assets Seized (\$ in millions).....	10,300	10,631	10,750
880 Arrests.....	4262	483	493
Grandtotal Laboratory Seizures.....	675	750	800
	187	162	170

Activity: Enforcement Federal Law and Investigations

1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
372	355	\$37,806	372	358	\$37,565	372	358	\$37,565	...	...	...

Subactivity: Domestic Enforcement

Organized Crime Drug Enforcement...

Long-Range Goal: The program's overall goal is to identify, investigate, and prosecute members of high-level drug trafficking enterprises, and to destroy or immobilize the operations of those organizations.

#### Major Objectives:

To target, investigate, and prosecute individuals who organize, direct, finance or are otherwise engaged in high level illegal drug trafficking enterprises, including large-scale money laundering organizations.

To administer a coordinated drug enforcement effort in each Task Force area and to encourage maximum cooperation among all drug enforcement agencies.

To work fully and effectively with other Federal, State and local drug enforcement agencies.

To make full use of financial investigative techniques, including tax law enforcement and forfeiture actions in order to identify and convict high-level traffickers and to enable the government to seize assets and profits derived from high-level drug trafficking.

Base Program Description: In an effort to counter-attack the wide scale drug problem in the United States, the President established a new program to combat drug trafficking and organized crime in October, 1982. Twelve new Regional Organized Crime Drug Enforcement Task Forces (OCDETF) were established in the following regions. The headquarters city for each of these task forces is indicated in parentheses:

- |  |  |
|--|--|
| 1) New England (Boston)                  | 7) North Central (Chicago)             |
| 2) New York - New Jersey (New York City) | 8) Great Lakes (Detroit)               |
| 3) Mid-Atlantic (Baltimore)              | 9) Mountain (Denver)                   |
| 4) Southeast (Atlanta)                   | 10) Los Angeles - Nevada (Los Angeles) |
| 5) Gulf Coast (Houston)                  | 11) Northwest (San Francisco)          |
| 6) South Central (St. Louis)             | 12) Southwest Border (San Diego)       |

In the 1985 Budget request, DEA has requested and received resources that established a thirteenth OCDETF Task Force. This Task Force is headquartered in Miami, Florida and is responsible for OCDETF activities in Florida, Puerto Rico and the Virgin Islands.



The OCDE Task Force program's overall goal is to identify, investigate, and prosecute members of high-level drug trafficking enterprises, and to destroy the operations of these organizations. These major drug trafficking organizations include any of the following types of groups, where a sizeable number of individuals is involved in the trafficking or there are large actual or potential profits gained from the trafficking:

Traditional organized crime figures, to the extent that such matters are not being worked already by Strike Force personnel, and, in any case, in coordination with the Strike Force office with responsibility for the district;

Major outlaw motorcycle gangs (e.g., Hells Angels, Pagans, Outlaws or Bandidos);

Other organized criminal groups (major street gangs, prison gangs, and similar groups);

An organization that is importing and/or distributing large amounts of controlled substances, or is financing the foregoing; or

Physicians or pharmacists illegally dispensing substantial quantities of prescription drugs.

The overall program goal will be accomplished by (1) devoting more Federal resources to the investigation and prosecution of these high-level organizations; (2) improving coordination and integrating the activities of Federal investigative and prosecutorial agencies on selected cases; and (3) making maximum use of financial investigative techniques.

Task Force operations are planned and coordinated through a network of committees representing participating agencies and under the general direction of the Associate Attorney General. At the national level, a working group chaired by the Associate Attorney General formulates general policy and monitors the program with the assistance of a small administrative unit in the Department of Justice headed by the national task force program administrator. In each of the 13 regions, the U.S. Attorney in the "core city" manages task force operations through the Task Force Coordinating Group. This group approves and monitors all task force investigations in the region to ensure that investigations are consistent with program goals and objectives and that appropriate interagency coordination takes place.

Individual task force cases are investigated and prosecuted by multi-agency teams in the judicial districts within the region. In each of the judicial districts which make up the region, the local U.S. Attorney heads a district drug enforcement coordination group which includes the senior agents from each participating agency office in that district. The district coordination group coordinates task force investigations and prosecution among participating Federal agencies and with State and local law enforcement authorities.

Agents and attorneys involved in individual task force cases remain under the direct supervision of their respective agencies but conduct investigations jointly with other task force agents and attorneys. Leadership responsibility for a specific case is decided on a case-by-case basis and assumed by one of the investigative agencies.

**Accomplishments and Workload:** As of November 30, 1984, DEA had initiated 570 ODETF cases since the beginning of the program. In the same time period, DEA has participated in 2,492 ODETF arrests. A total of 1,489 convictions have been made and asset seizures have been valued at over \$90 million. In all DEA has dedicated over 1,100,000 agent investigative workhours. But perhaps the most significant accomplishment of the ODETF program has been the increase in cooperation among the Federal agencies and the attendant increase in the number of joint drug cases. In all ODETF cases, at least two, if not more, Federal agencies are working together and effectively using each other's resources to disrupt and bring to prosecution major Class I and II drug traffickers in this country.

A joint FBI/DEA investigation commencing with heroin purchases in Philadelphia and New York and finally numerous wiretaps in the same cities, culminated with the arrests of numerous organized crime figures in the United States, Europe and South America. Major organized crime narcotics czar Gaetano Badalamenti triggered the roundup with his arrest in Spain pursuant to the New York Federal indictment. In total, twenty-one defendants were indicted. Twenty-nine were arrested and nine still remain fugitives. The arrests began on April 9, 1984. This case was probably the most significant assault on Italian narcotic organized crime traffickers in the history of law enforcement. The case utilized all types of investigative tools in order to totally destroy the trafficking organization. The investigation is continuing with attempts to identify and seize numerous drug-related assets, as well as to infiltrate the money laundering schemes which were established to "wash" numerous assets from the U.S. to foreign sources.

In November, 1983, New York DEA agents and New York State Police Officers arrested Roberto Carvajal and 21 other defendants in a "reverse" marijuana investigation in which undercover agents of the Austin, Texas DEA Office received a one million dollar advance payment for 30,000 pounds of marijuana. On November 19, 1983, two additional defendants were arrested in Austin, Texas. Drug-related property seizures, shortly after the arrests, amounted to approximately \$650,000 in cash, jewelry, vehicles and real estate property. Subsequent to the arrests, it was learned that the Chicago FBI Field Office was investigating the illegal financial activities of one of the main defendants arrested in this case, who was a lead target in a Chicago Customs/FBI ODETF case. The lead defendants in the NYPD case, as well as others, generated a high level of interest by several government agencies. As a result, DEA arranged a coordination and exchange of information meeting on December 20, 1983, at the U.S. Attorneys Office for the Southern District of New York.

At this meeting, it was determined that the cases should be combined as an ODETF case and be developed with the intent to seek indictments against the major violators under a Continuing Criminal Enterprise. On February 1, 1984, Roberto Carvajal and his female companion co-defendant Elizabeth Perez, were the victims of a double homicide in Miami, Florida. Further investigation by the New York Office has located two additional "stash" houses, one in New York and a second in Lancaster, Pennsylvania. Property valued at \$300,000 was seized in Miami during March, 1984 as proceeds of drug trafficking. Investigations by New York and Miami Offices identified additional property owned by the defendants including two discos, three residences, boats, a shopping center, an apartment complex, and development property in the Florida Keys collectively valued at over \$15,000,000. In May 1984, several of the above properties were seized in Florida, bringing the total value of asset seizures to date to over \$11 million. Of the 22 individuals indicted by the Federal Grand Jury, Southern District of New York, two were murdered; 17 have pled guilty, and 3 are awaiting trial. The principal defendant, have each pled guilty to two 15-year counts and are awaiting sentencing.



Activity: Enforcement of Federal Law and Investigations	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount
Subactivity: Foreign Cooperative Investigations	365	350	365	350	365	350	...	...
Foreign cooperative investigations..		\$36,012		\$37,069		\$37,069		...

Long-Range Goal: Reduce the supply of drugs of foreign origin destined for the United States illicit market.

#### Major Objectives:

To encourage, advise and assist host countries in the development and implementation of effective measures to control illicit drug crops, reduce illicit cultivation, production, and conversion and interdict drugs at in-country staging areas and disrupt trafficking routes.

To encourage and assist host countries to establish and support effective drug enforcement and intelligence agencies, and to promote intergovernmental enforcement cooperation and intelligence exchange.

To encourage development of essential chemicals programs to identify clandestine laboratory operations and restrict trafficking in essential chemicals destined for illicit use.

To identify and coordinate diplomatic efforts to eliminate diversion of controlled substances from international commerce and to assist foreign governments in the design of effective regulatory programs.

To support host country development of drug enforcement institutions through DEA training of foreign enforcement officials.

To explore with foreign governments ways to monitor and impact the substantial cash flow generated by illicit drug transactions and to encourage foreign enforcement officials to seize other drug-related assets, where appropriate legal authority exists.

To encourage and assist host countries in the drafting of appropriate legislation allowing for the seizure and forfeiture of assets obtained with drug profits.

To participate in international drug control and enforcement organizations to gain greater cooperation among all nations in which illicit drugs are produced, transited, and/or consumed.

Base Program Description: This decision unit addresses the problem of drugs of foreign origin which are destined for consumption in the United States illicit market. The majority of illicit drugs available in the United States are of foreign origin. DEA's overseas efforts are directed at assisting host governments in the development of programs aimed at reducing the supply of drugs at or near the agricultural source; immobilizing foreign clandestine conversion laboratories; identifying export staging areas and interdicting the drugs; and in reducing the diversion of legitimate drugs from international commerce. There is an ongoing and future need for additional resources to assist foreign narcotics control authorities in the suppression of illicit narcotics traffic actually or potentially impacting the United States illicit market.

States. DEA overseas presence is at the initiation of the host country. DEA is represented in 62 offices in 42 countries. The basic authorities for this Division Unit are Reorganization Plan No. 2 of 1973 and Executive Order 11727 of 1973. This program is carried out in coordination with the Department of State in foreign areas, Department of Justice guidelines and in accordance with P.L. 94-329, which is referred to as the Marihuana Amendment.

The primary motivation in international heroin trafficking is the intense competition among foreign traffickers to supply the demands of the immensely profitable American and foreign markets. Competitive factors take on increased law enforcement significance when viewed from the perspective that opium production is virtually uncontrollable in some world geographical areas and usually exceeds the demands of both the illicit and illicit world drug markets. The opium production capabilities of Southwest Asia (Afghanistan, Pakistan and Iran), the Golden Triangle countries of Southeast Asia (Thailand, Burma and Laos) and Mexico figure significantly in the world illicit opium supply and in the international competition for lucrative drug markets. Intelligence indicators continue to predict a continuing threat from Southwest Asia into 1986.

Destabilization of government controls in Southwest Asia and the emergence of Pakistani and Iranian transportation of heroin directly into Canada and the United States along with the continuation of traditional European trafficking routes and heroin processing laboratories contribute to the continuation of the severe heroin abuse and trafficking situation that we are experiencing. Recent information indicates that Africa is becoming a transshipment point for Southwest Asian heroin destined for Europe and North America. After reaching its peak in 1982, the Southwest Asian heroin problem has leveled off but at a higher level than has been experienced in the past. The increasing availability of Southwest Asian heroin will also add to this situation. Mexican heroin availability will continue at current levels.

South American cocaine sources continue to contribute to the increasing availability of this popular and expensive drug of abuse. The supply of cocaine and the abuser population are expected to increase. Recent efforts in the public and private sectors to demonstrate cocaine's physical and psychological dependence have raised public awareness regarding the serious health hazards of its abuse. However, the availability and purity of cocaine in the United States remains high. The large demand for cocaine in the United States will continue to encourage illicit traffickers to pursue this enormously profitable trade.

Cannabis, particularly in the form of marijuana, originates principally in South America, Jamaica, Mexico, and Thailand and is smuggled in ton quantities by land, sea, and air into the United States. The Middle East remains a significant source for the more potent cannabis extracts such as hashish and hashish oil, both of which are being smuggled to the United States from Morocco, Lebanon, Pakistan and Afghanistan.

The Caribbean area with its hundreds of islands and numerous small independent and colonial governments provides major international narcotics traffickers with protected drug transshipment and aircraft and vessel refueling sites. It also provides drug money laundries and significant criminal fugitives with safe havens from which to direct their smuggling activities. DEA continues to broaden cooperation with off-shore governments and banking facilities with respect to the volume of illegal money acquired by illicit drug trafficking organizations.

International cooperation in recent years has led to the reduction of methuamane worldwide and particularly in the United States. Recently there have been increases in the international market in valium being sold as methuamane. Valium in the form of Maudex is being shipped from India through Africa for distribution in other world markets. The diversion of dangerous drugs through Africa and elsewhere will be closely monitored.

In addition to the social and economic threat posed by the supply of foreign-source drugs into the United States, there are other factors which relate directly to the activities of this diversion unit. These include:

- The level of acceptance of DEA's presence and assistance in foreign countries varies because of such factors as the degree of motivation, national pride, political instability and capabilities of the host country.
- Many foreign governments appear to consider "drug abuse" a western phenomena; however, with the proliferation of drug abuse problems in other countries, this attitude appears to be changing especially in Pakistan where the addict population is estimated to be as high as 100,000.
- Some source countries have not been able to establish effective drug control in rural areas due to such obstacles as geography, limited and antiquated communications, and time-distance considerations. Denied access areas such as Iran, Afghanistan, Laos and Northern Burma pose even greater obstacles due to a complete lack of diplomatic dialogue.
- The consequences of traditional, conflicting jurisdictions, and divided provincial and tribal authority preclude effective narcotics control in many countries.
- Illicit drug cultivation provides a significant income, which in many areas is traditional and not easily replaceable.
- International "legal" money transactions are an essential element of the world illicit drug traffic.
- Foreign government drug intelligence collection, production, and dissemination systems, particularly those directly supportive of U.S. drug enforcement efforts, are sometimes ineffective and deficient.

DEA foreign activities focus on the provision of expert advice and authorized investigative, intelligence, and training assistance in those foreign areas deemed most critical to the reduction of drugs destined for the U.S. A natural extension of these programs is DEA encouragement and assistance in the implementation of substantive intergovernmental enforcement cooperation and intelligence exchanges.

Intelligence collection activities overseas are supplemented through the development and implementation of Special Field Intelligence Program (SFIP) operations. The purpose of SFIP operations is to provide funding to exploit highly specialized or unique collection opportunities against a wide variety of intelligence problems in foreign areas. These efforts are largely targeted toward collection of data on all phases of narcotic raw material production; smuggling routes and methods; trafficking and abuse patterns, as well as other matters of collateral interest, such as terrorist or financial matters relating to narcotic activities. This material--reported and disseminated through DEA channels--provides foreign, domestic and headquarters line and management personnel with detailed and accurate information which can be used for investigative as well as planning purposes.

Specifically, DEA has in recent years worked with such countries as Pakistan, Turkey, France, Italy and Mexico to develop the necessary intelligence to move against clandestine conversion laboratories, smuggling organizations, cultivation areas, and the organizations responsible for the trafficking of illicit drugs around the world. Additionally, DEA has maintained the necessary political liaison to influence the legislation process in various host countries in an effort to establish drug laws where none previously existed or were weak. Finally, DEA is making inroads into international financial investigations through the cooperation of host countries and the international banking and financial communities.

The diversion of legitimately-produced controlled substances from international channels has become a problem directly affecting the United States. DEA has responded to the problem by establishing international diversion programs in such offices as Bonn, Germany and Mexico City.

As a result of diplomatic initiatives undertaken by DEA with the assistance of the Department of State, foreign countries continue to make significant advances toward curbing the diversion of legally-produced drug substances. For example, all known methuamalone source countries have either ceased production or severely limited its exportation.

Accomplishments and Workload: DEA initiated an operation to identify methods and countries involved in the laundering of narcotic dollars focusing on the use of legitimate financial institutions as well as underground banking systems to launder drug related money.

#### Heroin

- DEA intelligence probes in Pakistan, Turkey, and Mexico have pinpointed illicit opiate conversion laboratory locations and identified laboratory owner/operators. These probes have resulted in the seizure of 17 laboratories.
- Successful intelligence probes were also conducted against drug laden vessels in the Mediterranean Sea and to ascertain the drug situation in previously inaccessible areas of Southwest Asia. In 1983, 400 vessels were identified as possible drug transporting ships, 5 were seized and 250 kilograms of heroin and 10 tons of marijuana were confiscated.
- Host government law enforcement authorities are cooperating in investigative and intelligence sharing programs which have led to interdiction and controlled convey investigations not previously thought possible.
- The targeting of major international trafficking groups for concentrated financial investigations is continuing with increased success. In 1983, Operation SWORDFISH resulted in 77 indictments, 44 arrests, the seizure of 10 vehicles, \$884,000 cash, \$980,000 in other property, and \$2,300,000 in fines and forfeited bonds.
- DEA is assisting many host countries in the implementation of existing laws and the development of legislation in countries without statutes with regard to the seizure and forfeiture of drug assets. So far Italy, Austria and the Netherlands have enacted drug laws where none previously existed.
- Another intelligence probe to collect information on the movement of opiates across the Pakistan/Indian border has resulted in the seizure of 492 pounds of opium, the identification of a network of Sri Lankan couriers, and a Bombay, India organization which transported multi-kilo quantities of heroin from Pakistan through Bombay and ultimately to Chicago and Dallas.
- A domestic intelligence probe in California has led to the identification of a United States bank used to transfer large amounts of narcotics profits (\$2 million during one 3-month period) to Mexico.
- With intelligence provided by DEA, the Government of Pakistan has undertaken actions in the Tribal Areas of the Northwest Frontier Province which have had significant impact upon the clandestine heroin conversion laboratories in that area.
- The Government of Burma is seeking United States assistance in establishing an opium eradication program modeled after the example of Mexico.
- Southwest Asia continues to pose a drug threat to the United States. Enforcement operations have been enhanced to identify and immobilize smuggling groups which are directly responsible for importing heroin through major ports and cities on the East Coast of the United States and the Gulf of Mexico. As a result, one (1) Turkish organization has been disrupted and three (3) others of varying nationality continue to be under investigation.
- In Southeast Asia, DEA is working closely with the Government of Thailand to control the illicit growth of opium in Thailand and the traffic in opium and heroin from Burma to Northwest Thailand.
- The Government of Thailand has established an effective control program to identify groups which are using the postal system to smuggle heroin to the U.S.

- Enforcement programs in Mexico have been established to identify the primary opiate refinery operators and the wholesale smuggling groups which are transiting narcotics across the land border between Mexico and the United States. Continued pressure will be exerted on the authorities to reinforce their commitment to opium eradication. In 1983, nearly 5,000 acres were eradicated. This represents a 39 percent increase over the 1982 level.
  - The DEA Mexico Country Office continues liaison and enforcement cooperation with National Enforcement Authorities in Beirut, Lebanon. Lebanon, an important source and transit country for both heroin and hashish, has been until recently without narcotic enforcement since the beginning of hostilities in 1975.
  - DEA continues to act as the focal point for cooperation between various foreign police agencies, particularly against laboratories and sources of drug supply in Europe, Southwest Asia, and Southeast Asia.
- Cocaine
- Coca crop surveys were conducted in the Llanos region of Colombia and the Lingo Maria region in Peru. As a result of the surveys, 35,000 acres of cultivation were identified in Colombia and 27,000 acres in Peru. Both countries were informed and Peru began eradication.
  - Airstrip inventories were produced for Belize, Jamaica and the Llanos of Colombia in support of programs such as Operation Airstrip.
  - These surveys were well received by Government officials.
  - A special report on U.S. International Airport Seizures Involving Cocaine Smuggling by body cavity was produced.
  - Narcotic country profiles for Bolivia, Colombia, Jamaica, Mexico and Peru were produced for use by the Attorney General and various members of Congress traveling in Latin America.
  - DEA has developed a preliminary organized crime program which targets traditional organized crime elements as well as major Colombian trafficking groups. Linkage between these elements was established during the past year.
  - DEA will continue to emphasize the funding of cases against foreign political and quasi-political cocaine sources of supply.
  - Particular attention was given to financial investigations and the development of reverse undercover operations which resulted in significant financial seizures, as well as neutralization of major traffickers, and seizures of multi-kilogram quantities of cocaine.
  - The implementation of existing legislation to control coca may be enhanced by the Government of Peru's concern that leftist terrorists are using profits from the production of coca to procure arms.
  - DEA's efforts to control the production of cocaine HCl in Colombia by limiting the traffickers' availability of ethyl ether and other essential chemicals is now being accelerated by obtaining the cooperation of other foreign sources of supply.
  - Cooperation of foreign counterparts in providing Title III information and other intelligence continues to enable increased domestic enforcement activity to be leveled against U.S. based traffickers.
  - DEA has disrupted cocaine traffic from Bolivia by indicting the former Interior Minister and sixteen other major trafficking figures. The Minister is now a fugitive in South America and is being sought for extradition to the United States.
- Dangerous Drugs
- In May 1984, DEA/FBI an investigation was initiated against a major methamphetamine group located in Indianapolis, Indiana and Rapid City, South Dakota. At the culmination of this investigation, an operational lab was seized in South Dakota and 15 individuals were arrested. Seventy-five pounds of meth were seized and assets totalling \$2,000,000 were forfeited to the Government. All defendants have pled guilty. The primary defendant pled to a CGS charge.



- In December 1984, as a result of a joint investigation with the Federal Republic of Germany (FRG), eight defendants were arrested in New Jersey and charged with conspiracy to manufacture methamphetamine. Twenty-nine 55 gallon drums of P-2-P, imported fraudulently from Germany, were seized. The total seizure of P-2-P in this investigation, which was marketed for \$225,000 per drum, was about 10,000 pounds--with a one-to-one conversion ratio for methamphetamine.
- In August 1984, the preliminary phase of "Operation HAWKSHAWK" was terminated with 54 people indicted for trafficking in huge quantities of methamphetamines--smuggled into the United States from Germany and Colombia. The organization controlled about 80% of the methamphetamines--both in powder and tablet form--sold on the illicit market in this country. This undercover operation was responsible for the seizure of 54 tons of methamphetamines and 800 pounds of cocaine. It was a tremendous DEA cooperative effort, involving the FBI, and the governments of nine foreign countries--utilizing a storefront in Germany and a wiretap in Canada. As the development of the conspiracy continues, further asset forfeitures are planned.
- In December 1984, the Atlanta Division seized a major-sized methamphetamine lab at Woodstock, Georgia. Defendants Darryl SMITH and his wife, Denise Potter SMITH, were arrested at the Golden Nugget Casino Hotel, Las Vegas, Nevada; where they had gone for a routine high-roller two-week gambling vacation. The lab could have produced approximately 30-40 million dosage units of speed with the chemicals on hand.
- Over 100 pounds of finished product was seized from a mini storage warehouse rented by SMITH. Also seized by DEA was approximately two million dollars of property and exotic cars owned by the SMITH's including a \$100,000 Rolls-Royce.
- In October 1984, DEA served a search warrant at a \$500,000 house on 3 acres of land in Brownsville, Texas and seized a large operational PCP laboratory. Four persons--resident aliens and Mexican nationals--were arrested; one physician, one lawyer, one industrial chemist, and the physician's brother. Seized were 50 pounds of PCP (Schedule I O.S.) and enough precursors to manufacture 305 kilograms of PCP--worth about \$700 million at retail prices.
- This PCP laboratory, one of the biggest on record, was utilizing about \$50,000 worth of equipment and glassware--including 24/22 liter flasks, and as an indication of its tremendous volume, 40 garbage cans were being used for the initial chemical reactions.
- Intelligence indicates that this organization had previously produced PCP in California and had experimented with various formulas, one of which has resulted in a number of people in California contracting Parkinson's disease. Intelligence has traced this back to this organization which had relocated in Texas. Investigation is being coordinated with the Center for Disease Control (CDC) in Atlanta.
- The Dangerous Drugs Section has targeted various essential precursor chemicals for the manufacturer of illicit drugs, and has established a world-wide voluntary cooperation program of liaison with the basic manufacturers of these chemicals. The chemicals are as follows: Ecgonamine Tartrate, LSD, Piperidine, PCP, Anthranilic Acid, Methqualone, Phenylacetic Acid, Methamphetamine. Preliminary liaison visits to the manufacturers have been very successful.
- The difficult problem involving the disposition/destruction of hazardous chemical encountered in clandestine laboratories has been addressed in depth by CH in an attempt to arrive at a reasonable solution. Currently, negotiations are underway between the Office of Chief Counsel and the State of Maryland regarding the signing of articles of agreement; which will serve as a model for like programs in the field divisions.

- Ongoing high-level investigations are proceeding very successfully, and involve several Outlaw Motorcycle Gangs (OMG's) on a nationwide basis. These investigations have been coordinated from the outset with the FBI, and thus far several hundred people have been implicated as defendants.
- The total clandestine lab seizures for 1984 amounted to 208--70% methamphetamine, 20% PCP, and 10% miscellaneous.

#### Cannabis

- DEA in coordination with the Department of State, completed surveys of Fall, 1983 marijuana crops in Colombia, Belize and the Dominican Republic. An analysis of this data was provided to the U.S. Coast Guard for incorporation into their operational reports.
- A total of 3,070 marijuana fields representing approximately 1,500 acres were destroyed in a joint Government of Belize/Government of Mexico marijuana eradication program. It is believed that this represents 90 percent of the Fall, 1983 marijuana crop in Belize. The Guatemala Country Office was instrumental in initiating this operation. Successful eradication programs have also been conducted in Colombia where 8,500 acres were eradicated and Mexico where nearly 17,000 acres were eradicated.
- A special domestic enforcement operation in California identified offshore corporations, trusts and bank accounts in Hong Kong, Belize and Mexico which were used to launder illegal narcotic proceeds from the sale of multi-ton quantities of Thai opiates. These drug related assets are subject to possible seizure and forfeiture.
- Honduran law enforcement officials are coordinating closely with DEA in the development of information regarding vessel traffic in the Caribbean.
- DEA agents in the Guatemala Country Office are initiating a program for identification of suspect vessels and aircraft utilizing facilities in Belize to transport drugs to the United States.
- The overall effectiveness of drug control programs in Nicaragua and El Salvador continue to be restricted because of the political instability of the area.
- Considerable dialogue between the United States and Colombian Governments in regard to a herbicide marijuana eradication program has resulted in the destruction of 8,500 acres of prime marijuana through calendar year 1984.
- DEA was responsible for researching and developing future strategies for marijuana eradication in foreign countries which have significant source potential for the United States.
- DEA offices in Indonesia and the Philippines are supporting eradication efforts by host governments to decrease the availability of marijuana. In the Philippines, a reported 860,000 plants were eradicated.
- Mexico has traditionally been a producer of commercial grade marijuana, but eradication efforts in non-traditional growing areas have resulted in the seizure of sophisticated farms employing high-tech agricultural techniques to improve yields.
- Hashish seizures in 1983 foreign cooperative efforts were 73.6 metric tons.

Program measures include the following:

Item	Estimates		
	1983	1984	1985
Foreign cooperative cases initiated.....	750	800	800
Foreign cooperative arrests.....	1,300	1,072	1,420
Intelligence reports prepared.....	105	146	140
Special Field Intelligence Program Operations (SFIP).....	30	30	53
Foreign police officials trained.....	1,487	1,199	1,050

Activity: Enforcement of Federal Law and Investigations  
 Subactivity: Diversion Control

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	NY Amount	Pos.	NY Amount	Pos.	NY Amount
Diversion control.....	507	368 \$20,019	507	488 \$27,756	...	...

Long-Range Goal: Reduce to the maximum extent possible the diversion of legitimately produced controlled substances into illicit channels, at all levels of distribution, and to provide leadership and support to ensure State and local agencies and the pharmaceutical industry establish and maintain programs and policy to control diversion.

#### Major Objectives:

- The overall objective of the Diversion Control program is to prevent legitimately produced controlled substances from being diverted into illicit channels through the following activities:
- To identify and investigate large-scale drug diversion problems, including investigation of G-DEP I and II violators, in specific areas, and participate in joint investigations with other agencies.
  - To identify and coordinate diplomatic and operational efforts to eliminate diversion of controlled substances from international commerce.
  - To conduct administrative revocation investigations which will result in the revocation, denial, surrender or suspension of a DEA registration.
  - To provide training and assistance to the states in violator targeting, investigative techniques, drug control actions, and in specific problem areas.
  - To conduct pre-registrant investigations of applicants for DEA registration, conduct unannounced cyclical registrant investigations, and provide for voluntary compliance within the regulated industry.
  - To monitor and process import/export transactions and prepare United Nations reports as required by the Single and Psychotropic Conventions.
  - To identify substances which are being abused; provide for their listing in the appropriate CSA schedule, and establish production quotas where required.
  - To process DEA registration applications and issue order forms for Schedule I and II substances.

**Base Program Description:** The Diversion Control program addresses the problem of the diversion of controlled substances from the legitimate channels in which they are manufactured, distributed, and dispensed. Drug abuse is one of the great problems facing America today. The high cost of drug abuse can be seen in our homes, schools, and factories. What is not well known is the role of legally produced drugs on the abuse problem. The President's Strategy Council on Drug Abuse reports that over seven million people use prescription drugs (barbiturates, amphetamines, tranquilizers) for nonmedical purposes. Additionally, OAO reports that legal drugs are involved in as much as 70 percent of all drug-related injuries or deaths.

As part of its responsibility to protect the health and general welfare of the American people, the Federal Government must respond to this problem. DEA is responsible for enforcing the provision of the "Controlled Substances Act and Controlled Substances Import/Export Act 21 U.S.C. 801-966 et seq., as they pertain to legitimately-produced controlled substances. Additionally, the Comprehensive Crime Control Act, which the President signed into law on October 12, 1984, created the Administrative Revocation Program through which DEA may deny an application for registration or revoke or suspend a registration if it is determined that the issuance of such registration would be inconsistent with the public interest. This new authority will allow DEA to impact on the violative registrant population which could not be effectively attacked through existing authorities.

It is estimated that there are approximately 715,000 registrants (manufacturers, distributors, and practitioners) served by the decision unit. In fact, this decision unit serves all American citizens by ensuring that the manufacture of controlled substances does not exceed that amount required for medicinal use and by controlling the distribution of these substances to prevent their diversion into illicit channels.

**Accomplishments and Workload:** It is estimated that approximately 12,000 practitioners are involved in violative acts. In 1984, O-DEP I and II violators continued to be investigated under the Targeted Registrant Investigations Program (TRIP). Such investigations require sophisticated investigative techniques in order to identify individuals responsible for diverting controlled substances. These investigations are made more complex because they involve legally registered practitioners as well as financiers backed by organized criminal elements. The aforementioned groups hire physicians who prepare a constant stream of illegal controlled drug prescriptions. The prescriptions result in millions of controlled substance dosage units being diverted into the illicit market. During 1984, 226 criminal diversion investigations were conducted resulting in the arrest of 165 individuals and 72 "show cause" actions under administrative revocation procedures. Asset removals, criminal fines, and civil penalties from program efforts amounted to \$1,939,500 in 1984.

In 1984, 667 civil investigations were performed, resulting in 168 letters of admonition, 48 administrative hearings, and 42 civil prosecutions. Additionally, 1,185 pre-registration investigations were performed to ensure that only qualified individuals would be permitted to acquire controlled substances.

The Registration Section processed approximately 628,634 applications submitted by legitimate handlers of controlled substances and issue 320,158 Schedule I and II Order Form Books, as required by the Controlled Substance Act (CSA).

Due to the success of recent investigative initiatives, DEA has effectively eliminated the illegal dispensing of Qualudes through the so-called "stress clinics." Between 1981 and 1983 the distribution of methuquone (which is the generic name for Qualudes) was reduced by 68 percent due to manufacturing quotas imposed by DEA. In 1984 methuquone is being placed in Schedule I which indicates that the substance has no legitimate medical use. Subsequent to 1984 this drug, which has presented a significant diversion and abuse problem in the last decade, will no longer be legally manufactured in the United States. Additionally, international efforts have essentially

curtailed the diversion of foreign-source methaqualone into the United States. The effectiveness of the Office of Diversion Control's international efforts is demonstrated by the following seizure data which reflects the previous magnitude and subsequent decline of methaqualone availability: In 1981, 57 metric tons of methaqualone were seized; during the first seven months of 1984, less than one ton was seized. Through diplomatic initiatives the most known foreign sources of methaqualone have been eliminated.

Other major accomplishments in the prevention of diversion from international commerce were the European Source Country Conference held in Rome, Italy, and drug diversion seminars held in Basilio, Brazil, and Caracas, Venezuela. These seminars and conference provided an excellent forum to develop solutions to international diversion matters affecting the United States. Due to increased liaison and a recent seminar presented in Washington, D.C., several major successes have been realized in stemming the flow of Mexican-produced products across the border. Although previous action had been taken by the Mexican government concerning cocaine,ough syrup and phenemaline products, additional, stronger drug control action concerning fenethylline diversion into the United States became effective subsequent to the seminar. Also, in recognition of the importance and effectiveness of these international diversion activities, two additional Advisors on Compliance and Regulatory Affairs (ACRAs) positions were approved for overseas - one of which has been assigned to Interpol Headquarters, St. Cloud, France, at the specific request of the Interpol Secretariat. The other will be placed in Central or South America.

In 1984, DEA processed 1,841 import/export documents. These documents are carefully monitored to ensure that controlled substances do not enter or exit the United States without prior approval.

The DEA works with trade and professional associations, licensing boards, and professional schools to promote self-regulation and self-policing through a voluntary compliance program. The purpose of the program is to inform registrants of problems and trends causing the diversion of controlled substances and to encourage voluntary corrective action. In 1984, DEA participated in over 30 State and local meetings nationally using DEA experts in the field and 29 portable exhibits in furtherance of the program. Four (4) DEA working committees for industry, pharmacy, drug wholesalers and medicine met and continue to provide the agency with a forum for discussing matters of mutual concern. A preliminary study to determine which states might most benefit from a Federal assistance program to combat drug diversion and abuse has been completed.

DEA conducted a national conference on the control and diversion of controlled substances which was attended by officials from 43 states, Puerto Rico and the District of Columbia, who have the authority to influence and establish controlled drug policy. This was the first such DEA-sponsored conference held since the enactment of the Controlled Substances Act of 1970. The conference provided a forum to share and exchange current information regarding legitimately marketed controlled drugs, explore the issues of drug control and diversion and provide guidance to both Federal and State officials responsible for making policy as it relates to controlled substances.

In response to requests from the Secretary-General of the United Nations, the World Health Organization (WHO) and INCB, reports on the abuse, diversion and the illicit trafficking of 29 stimulants and hallucinogens were prepared. Assistance was also provided to WHO in hosting an international conference of experts who reviewed the guidelines for the exemption of pharmaceutical preparations under the Psychotropic Convention. Data concerning formulations covering more than 600 U.S. products was submitted for WHO review under these guidelines. Domestically, alfentanil, a potent narcotic, was placed in Schedule I and sufentanil, also a narcotic, was moved from Schedule I to Schedule II after it was approved for marketing by the Food and Drug Administration. As a consequence of their inclusion in the Psychotropic Convention, 21 benzodiazepines (Valium-like drugs) were proposed for placement in Schedule IV. The hallucinogen 3, 4-methylenedioxymeth-amphetamine (MDA) was proposed for placement in Schedule I control. Other scheduling actions in 1984 included the review of 104 products for status as exempt chemical preparations. Seventeen products were reviewed for status as exempt prescription drugs. Federal legislation concerning look-alike drug products was drafted and submitted to Congress. Administrative hearings were held related to the proposed transfer of buprenorphine to Schedule V.

In 1984, 911 quota requests for Schedule I and II drugs were processed. A number of resolutions and position papers were drafted for use by the U.S. delegation to the U.N. Commission on Narcotic Drugs, and the information required for the U.N. Multilingual Dictionary was compiled. Nine statistical and two drug information reports were submitted to the U.N. as required by treaty obligations.

The ARCOS and DMDS information systems successfully provided investigative leads and excessive purchase profiles utilized by both "TRIP" and State agencies to identify individuals and firms involved in drug diversion. DEA anticipates a 50% increase in the output of these information systems due to additional resources provided in the 1985 appropriation.

Program measures include the following:

Item	Estimates	
	1984	1985
Cyclic investigations conducted.....	736	750
Compliant investigations conducted.....	320	320
Pre-registrant investigations conducted.....	1,253	1,253
Administrative revocation investigations.....	...	50
Import/export documents processed.....	1,910	1,875
Foreign regulatory programs.....	3	5
ARCOS profiles prepared.....	163	435
ARCOS actions completed.....	15	1,050
Quotas established.....	850	12
Registration applications processed.....	708,673	900
Order forms books issued.....	321,520	715,000
		322,000

Activity: Enforcement of Federal Law and Investigations	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perms.	NY Amount	Perms.	NY Amount	Perms.	NY Amount	Perms.	NY Amount
Subactivity: State and Local Assistance								
State and Local training.....	25	24 \$1,912	25	24 \$1,982	25	24 \$1,982	...	...

Long-Range Goal: Expend significantly and economically the personnel resources available nationwide at all levels of government, for the control of drug abuse and trafficking. The training programs are consistent with 21 U.S.C. 872 (Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 801-906) and Executive Order 11641 of 1972, as amended by the President's Reorganization Plan No. 2 of 1973.

#### Major Objectives:

Provide training in basic, advanced, and specialized drug law investigation techniques and methodologies to State, local military, and other Federal officers and chemists.

Provide training in management and supervision of drug investigative units for State, local, military, and other Federal professionals.

Provide information, publications, films, and other materials and displays on controlled substances, drug abuse and its problems to the public, community leaders, criminal justice agencies and associations, CSA registrants, educational and health professionals, and professional sport groups.

Base Program Description. The purpose of the State and Local Training program is to expand DEA's enforcement and drug abuse suppression efforts by increasing the cooperation between law enforcement agencies at all levels of government in the United States and convey changes in national priorities and strategies to all levels of drug law enforcement; develop required training programs and determine resource requirements to provide increased skills to Federal, State and local policy agencies and military offices; and utilize all available resources where appropriate to gain the benefits from greater expertise and prevent duplication of effort.

DEA has primary responsibility for developing a national drug abuse control strategy. The enforcement, drug supply suppression, and prevention programs must be adequately communicated to State, local, military, and other Federal officials if DEA's national strategy is to have full impact.

National manpower being brought to bear against the illicit drug traffic is increased and made more efficient if State, local, military, and other Federal law enforcement agencies can be sufficiently trained or brought up to date in the skills peculiar to drug law enforcement and suppression. This approach also frees Federal resources for concentration on high-level national and international drug trafficking organizations.

Changing strategies, like the increasing emphasis on the financial aspects of drug enforcement, require an intensified effort through an increase in specialized training programs so that new techniques can continue to be conveyed to these non-DEA participants to provide; move effective means of controlling the drug abuse problem.

With the exception of the Forensic Chemist Seminars, those State and local training programs previously conducted at DEA Headquarters are now conducted at the Federal Law Enforcement Training Center (FLETC), Olynco, Georgia. These programs and those conducted throughout the United States provide a variety of basic, advanced, specialized, management, leadership, and methods of instructional training. (The Forensic Chemist Seminars remain in Washington, D.C., because there is no laboratory at FLETC.) The general public and community leaders are reached through publications, displays, and conferences concerning the awareness and prevention of drug abuse.

**Accomplishments and Workload:** DEA is constantly shifting emphasis in training programs based on changing trends in the illicit trafficking of narcotics and dangerous drugs. There is a continuing demand for advanced and specialized skills training such as conspiracy, financial investigation, asset removal, clandestine laboratory investigations, and diversion control.

As a result of the FBI being given concurrent jurisdiction in drug investigations, DEA developed and implemented a two-week Narcotic Specialization training program for selected FBI agents as well as a three-day orientation program for all FBI agents. During 1982 and 1983, 7,804 FBI agents had attended DEA's orientation program. The Narcotic Specialization training started in 1982 and continued in 1983 with six two-week classes in which 249 were trained. In 1984, four schools were conducted and 137 FBI agents received specialization training.

A new drug training program has been established for all officials attending the FBI Academy in Quantico, Virginia, as well as a twenty-hour time block of instruction on drug law enforcement for all entry-level agent classes conducted at Quantico.

There was a 40 percent increase in State and local training conducted in the field divisions during 1983. Approximately 500 officers received specialized training under the auspices of the Marijuana Education program. This new initiative was continued in 1984. Due to the extremely heavy demands placed on the DEA training staff to provide entry-level agent training in 1983 and the resultant physical limitations on classroom and dormitory availability, there was a reduction in the eight-week academy and supervisory officers schools conducted in 1983. In 1984, the reduced level was continued due to FLETC-imposed constraints. Two eight-week Drug Enforcement Officers Academy and one Supervisory DEO Seminar are scheduled for 1985. This will double the student enrollment as compared to 1983 and 1984.

Training in the development and conduct of narcotics specialization and in narcotics unit management provides a multiplier effect through which DEA is ensuring that its training and expertise are passed on to even larger numbers of officers. Over 90 percent of graduates of the Drug Enforcement Officers Academy (DEOA) report that they utilize their DEA training in training other law enforcement and community personnel. The 1984 DEOA Alumni Association Conference was attended by 110 state and local officials who had attended DEA's eight-week academy. DEA also hosted the annual conference of the International Association for Chiefs of Police (IACP) at which 120 officials were in attendance.

The American Counsel on Education awards 17 semester hours of undergraduate credit to participants who successfully complete the eight-week Drug Enforcement Officers Academy and four semester hours of undergraduate credit for the two-week Basic Drug Law Enforcement School.



Program measures include the following:

Item	Estimates	
	1983	1985
State and Local Officials Trained:		
Training programs conducted in Glynn/Washington.....	317	353
Training programs conducted by Divisions.....	5,743	6,400
FBI Special Agents Trained:		
Narcotics Specialization Training (Glynn).....	249	150
Narcotics Orientation Training (Quintaco).....	850	500
Total.....	7,159	7,403

Activity: Enforcement Federal Law and Investigations	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount
Subactivity: State and Local Assistance												
State and local laboratory services.....	23	23	\$1,509	23	23	\$1,505	23	23	\$1,505	...	...	...

Long-Range Goal: Provide support to State and local law enforcement agencies through supplemental laboratory analysis of drug evidence meeting applicable State Speedy Trial Act provisions and through provision of technical assistance to aid and encourage other State and local agencies in achieving forensic analytical self-sufficiency.

#### Major Objectives:

To assist State and local laboratories to achieve self-sufficiency through the following:

- Publication of technical information and participation in national and local forensic science meetings;
- Provision of training in forensic drug analytical techniques; and
- Support to programs that assist in enhancing State and local laboratory capabilities "participation in American Society of Crime Laboratory Directors, American Academy of Forensic Sciences and regional professional associations";

To provide quantitative and qualitative analysis of drug evidence for those agencies that do not have laboratories and on difficult and complex exhibits requiring highly-specialized examinations for those agencies that do not have the necessary expertise or instrumentation.

To provide expert testimony in court relative to analytical findings for prosecutive purposes.

To provide analytical drug reference standards where there is no commercial source.

To conduct ballistics examinations of tablets and capsules to identify common origins of clandestinely-produced dosage units and to identify illicitly-manufactured dosage units diverted to the illicit market.

Base Program Description: This decision unit addresses the problem of support to State and local law enforcement agencies by providing supplemental laboratory analysis of drug evidence meeting applicable State Speedy Trial Act provisions and through provision of technical assistance to aid and encourage other State and local agencies in achieving forensic analytical self-sufficiency.

The State and Local Laboratory Services program is responsible for: providing to State and local agencies technical assistance, which is beyond the expertise of the forensic laboratory servicing the agency; and helping State and local forensic laboratories achieve self-sufficiency in the analysis of drug evidence for criminal investigations and prosecutions.

This program includes seeking means to upgrade the analytical capabilities of State and local laboratories. When State and local agencies cannot provide laboratory services or need technical assistance in the development of prosecutive presentations and cross-examination of defense expert witnesses, DEA offers assistance. The major component is the analysis of drug evidence for duly constituted State, county,

and municipal law enforcement agencies, assuring that cases developed will not be dismissed for want of competent laboratory support. This program, in conjunction with other assistance programs, will help focus State and local law enforcement attention on the appropriate response to the drug problem.

DEA assists other agencies in achieving forensic analytical self-sufficiency by conducting training in drug analytical techniques; publishing and distributing the scientific newsletter Micrograms; providing intelligence and technical information to the forensic community; publishing technical information in scientific journals; participating in national and local forensic meetings; and providing analytical drug reference standards. The program mission, under DEA--Reorganization Plan No. 2 of 1973 and 21 U.S.C. 872 and 873, is to conduct training programs for State and local forensic chemists and to provide laboratory support for State and local law enforcement agencies including analysis of drug evidence and expert testimony in State prosecutive cases.

This program analyzes drug exhibits in a timely manner to assist in complying with State Speedy Trial provisions in support of prosecutions, provides expert testimony, and conducts highly-specialized ballistics analysis of tablets and capsules to identify common origins of illicit and illicitly-produced dosage units diverted to the illicit market. Expertise in the ballistics examination of drug dosage units rests solely with DEA.

DEA renders forensic analytical support to the Metropolitan Police Department, Washington, D.C. "MPD". More than three-fourths of the drug exhibits DEA analyzes for other agencies are submitted by the MPD, which is completely dependent on DEA for forensic drug analysis. Related to this analytical commitment is the resultant need to offer expert witness testimony in the D.C. Superior Court.

In general, other evidence analyzed within the State and local program which is of an unusual or difficult nature is analyzed by the DEA laboratory system as an aid to State and local forensic laboratories less capable of performing such analyses.

Accomplishments and Workload: In support of other agency drug investigations during 1984, DEA laboratories analyzed 9,154 exhibits of evidence, testified in 116 trials, conducted 111 ballistics examinations, published 12 issues of Micrograms, and conducted 4 State and local chemist seminars to train over 65 chemists. Additionally, DEA actively participates in regional, national, and international forensic science organizations by holding officer positions, participating on committees, and presenting scientific papers.

The success of this program in assisting self-sufficiency of State and local agencies can be partially measured in the reduction of evidence analyses from almost 16,000 in 1975 and 1976 to just over 9,500 in 1979 and 1980. In 1981 there were 8,509 and in 1982 there were 8,431 evidence analyses conducted for this program. In 1983, further reductions in State and local evidence analyses were anticipated, however, due to an influx of evidence submissions from the MPD, Washington, D.C., the total number of analyses for State and local agencies was 8,253 and 9,154 in 1984. Approximately 80 percent of the workload is generated by the MPD, Washington, D.C., which does not have its own laboratory and relies totally on DEA. The remaining 20 percent is submitted by the 50 States and numerous local law enforcement agencies.

Program measures include the following:

Item	Estimates	
	1984	1985
Drug exhibit analyses.....	1983	
Ballistics examinations.....	8,253	
Issues of Microgram.....	192	7,000
Training conducted "seminars".....	12	150
Court appearances.....	4	12
Evidence backlog.....	181	4
	220	150
		1,236
		2,236

Activity: Enforcement of Federal Law and Investigations  
 Subactivity: State and Local Assistance

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount
Federal/State and local task forces..	122	119	\$13,457	122	119	\$13,671	122	119	\$13,671	...	...	...

Long-Range Goal: To complement the Federal drug enforcement effort by increasing the effectiveness of Federal/State and local drug enforcement activities aimed towards reduction of all levels of Illinois drug trafficking and associated violent crime.

Major Objectives:

- To disrupt the Illinois drug traffic in specified geographic areas by immobilizing targeted violators, trafficking organizations, and associated violent crime.
- To increase the effectiveness of participating agencies by providing extended on-the-job training to assigned officers and exposing them to the benefits of selective targeting.
- To improve operational interaction among all agencies participating in the task forces.
- To encourage participating agencies to establish investigative priorities which emphasize those drugs posing the greatest danger to society in accordance with local needs and problems.
- To increase the effectiveness of drug law enforcement agencies in the local areas which are not participating in the task force, by providing direct assistance, intelligence information and other support.
- To provide for the development and maximum use of intelligence information through enhanced coordination.
- To increase the participation of experienced State and local officials in the national drug enforcement effort and thus maximize the use of Federal resources devoted to the drug problem.
- To continue to provide sophisticated specialized training to State and local officers who have formerly participated in DEA training programs.
- To promote the enactment, by individual state legislatures, of model statutes related to drug trafficking, drug abuse prevention and financial proceeds derived from the drug traffic.
- To identify, develop and catalog new and innovative programs and approaches which can be used to solve State and local drug problems, i.e., become a clearinghouse for proven Federal or State programs.

To formalize informal unfunded task forces and thereby increase the number of DEA formal State and local task forces throughout the country.

To enhance Headquarters direction and support to the program and ensure compliance with common standards and policies.

**Base Program Description:** The DEA/State and Local Task Force program unites DEA agents and State and local police officers into cohesive drug enforcement units in selected geographic areas to provide: increased emphasis on drug enforcement, inter-departmental and interagency drug investigative cooperation, continuous intelligence exchange, and mitigation of violent crime. As a result of the expanded DEA/FBI coordination of drug enforcement efforts, FBI resources will be available to State and local task forces to fulfill special enforcement and intelligence requirements.

DEA/State and local drug enforcement is an essential element of the national drug strategy for the following reasons:

- State and local police, due to their large aggregate numbers, can add significantly to the absolute number of personnel in the field involved in an integrated effort against illicit drug traffic and violent crime.
- State and local police are widely dispersed throughout the nation and therefore can provide full geographic drug enforcement coverage.
- State and local enforcement efforts can disrupt the retail illicit drug market, maintain pressure on drug dealers, and increase the cost of their illicit drug operations, thereby discouraging experimental drug users from progressing to chronic abuse.
- State/local drug enforcement and Federal enforcement programs both develop investigatory leads, informants, and intelligence which are of mutual benefit, thus strengthening the drug enforcement efforts of both programs.

Currently, DEA State and local task forces are fully operational in 26 metropolitan areas: New York, Long Island, Buffalo, Newark, Philadelphia, Washington, D.C., Orlando, Chicago, Minneapolis, Denver, St. Louis, Lubbock, Phoenix, Portland (Maine), Los Angeles, San Diego, San Jose, Guam, New Orleans, Honolulu, San Juan (P.R.), Burlington, Baltimore, Reno, and Louisville.

The Task Force program has proven itself an effective complement to the Federal drug enforcement effort by increasing the effectiveness of State and local drug enforcement activities aimed toward disruption of all levels of illicit drug trafficking. As part of a comprehensive national and international drug effort by Federal elements and their State, local, and foreign counterparts, the Task Force program plays a critical role by attacking the mid-level violator, the link between the supplier and consumer. With disruption or removal of this link, the cycle of drug production and consumption--supply and demand--would be significantly impeded. Moreover, the Task Force program provides DEA access to the lower levels of the trafficking spectrum, where investigations of new or unknown trafficking organizations are generally initiated, without a major investment of Federal resources.

**Accomplishments and Workload:** This program has contributed significantly to the attainment of DEA's mission to disrupt and immobilize major and mid-level drug trafficking organizations. Viewed from several standards, the program has met or exceeded the original expectations of the task force concept. Some of the major Task Force program accomplishments are delineated as follows:

- Arrested over 14,500 drug violators in the past 5 years (1980-1984).
- Directed 585,000 State and local police officer investigative workhours per year to Federal narcotics enforcement efforts (approximately 390 workyears).
- Seized in cooperative operations over 48 million dollars of drug related assets in task force cases during 1982-1984.

- Maintained an overall conviction rate that matches DEA-initiated investigations (97-98%).
- Over 60% of task force investigative hours were targeted on Class I and II investigations.
- Heroin seizures were at 20 kilograms for 1984 as compared to 16 kilograms seized in 1983.
- Cocaine seizures were at 3,956 kilograms for 1984 as compared to 2,281 kilograms in 1983.
- Approximately 30% of task force arrests resulted from Class I and II investigations.
- Accounted for approximately 20 percent of the agency's 1983-1984 total arrests, with only 104 DEA special agents assigned to the program (less than 6 percent of the total foreign and domestic special agent strength).
- Compiled an average arrest cost (\$2/PI and operating funds) in recent years of approximately \$5,000 for task force cases, compared to \$9,000 in other DEA cases.

Aside from the statistical achievements, a DEA study team in 1982-1983 reported that in the task force offices visited there was almost unanimous approval of the Task Force program. State and local police departments, prosecutors, and DEA field management were extremely supportive of both the need for the program and also the record of its accomplishments. Communication and cooperation with State and local police agencies is certainly open and functioning well in most task force offices. While more difficult to measure, most task force participants believe the exchange of information and intelligence between State and local and Federal agencies has been significantly enhanced. The increased exchange of information has established a base allowing task forces to move into Federal level investigations. A key factor to increasing DEA's overall elision effectiveness is the strengthened working relationships with our State and local counterparts. These bonds appear to yield lasting benefits for the overall drug enforcement program.

To illustrate the scope and level of cooperative Task Force cases, synopses of three major investigations, which culminated in 1983, follow:

A major criminal organization was disrupted by the Orlando DEA State and Local Task Force with the arrest of 12 individuals charging 18 U.S.G. 1961-1968 (Racketeer Influenced and Corrupt Organizations). The investigation revealed this organization imported from 60,000 - 80,000 pounds of marijuana per month into Florida, Texas, and Louisiana from Colombia. Robert Goven was sentenced to 45 years incarceration. Seized from Goven were three houses in Orlando, West Palm Beach, and Ft. Lauderdale and an Orlando apartment complex, all valued at \$5,300,000. In addition, taxes in the amount of \$13,300,000 were levied on proceeds of Goven's drug operation.

On December 15, 1983, the New York Drug Enforcement Task Force, with assistance from the Long Island Task Force and U.S. Customs, stopped two vehicles on the Long Island Expressway. Three defendants were arrested and 1,629 pounds of cocaine were seized. The value of the drugs was in excess of \$160 million (retail level) and is the largest seizure of drugs with defendants ever made in the United States. On December 16, 1983, U.S. District Court Judge Platt held the three in lieu of \$20 million cash bonds.

A Detroit Task Force investigation combined the Detroit DEA Task Force, Detroit Police Department and the IRS (1980-1984). Phase I was initiated in December 1980, when the investigation yielded the intelligence that an organization, who called themselves Young Boys Inc., was utilizing children as young as 11 years of age to sell heroin. The organization's rationale for utilizing children was that they were inconspicuous and could not be prosecuted. The first of two Federal warrants resulted in the seizure of \$750,000 in currency, the majority of which was \$10, \$5, and \$1 denominations. Street sales averaged a small \$11 per sale. Utilization of Title III wire intercepts led to another money cache of \$633,000, again in small bills. Phase I of this investigation culminated with the arrest of 41 defendants, all of whom, with the exception of one fugitive and juvenile were convicted. Properties were seized along with 14 luxury vehicles (Corvettes, Cadillacs, BMW's, and a Belosian).

As a result of information developed by the New York Task Force, Miami DEA/Customs seized 2,000 pounds of cocaine in June 1984, and arrested several international traffickers. Retail value of the cocaine in New York would have been \$20 million. This investigation is continuing.

During 1984, the Washington, D.C. Field Division, State and local task force seized 8 clandestine laboratories and arrested a total of 171 defendants. These type of seizures stop drug traffic at its source.

The Chicago State and Local Task Force infiltrated a criminal organization known as the Hill Billy Mafia. As a result of the investigation, 43 narcotic exhibits, 259 non-narcotic exhibits, including 34 weapons were seized. The principal defendant Paul Baker was arrested in the northern district of Illinois. He subsequently fled to Kentucky where on Palm Sunday he plotted to rob a U. S. Post Office by this group was thwarted by DEA, ATF and U. S. Postal Inspectors. Twenty arrests have been achieved so far, more are anticipated.

As a further indication of increased task force participation in major drug cases, the record of Task Force activity in Title III Intercepts and FBI cooperative cases is revealing. In 1982, the Task Forces initiated or cooperated in 15 Title III operations; while, in 1983, this number increased to 21; however, in 1984, this number declined somewhat to 16.

Program measures include the following:

Item	Estimates	
	1983	1984
New investigations initiated.....	2,440	1,400
Aviation missions requested.....	2,554	2,476
DEA investigative workhours by Class of Case:		
Class I.....	96,492	90,780
Class II.....	28,711	17,543
Class III.....	70,041	56,353
Class IV.....	7,516	7,633
Totals.....	200,760	172,309
Drug related asset seizures (\$ in thousands).....	\$27,440	\$49,703
Conviction rate (Federal courts).....	97%	97%
Conviction rate (State courts).....	97%	98%



Activity: Enforcement of Federal Law and Investigations	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Frm.	FY	Amount	Frm.	FY	Amount	Frm.	FY	Amount	Frm.	FY
Subactivity: Intelligence											
Intelligence.....	334	315	\$17,199	334	321	\$17,324	334	321	\$17,324	...	...

Long-Range Goal: To develop and maintain a national and international drug intelligence system that provides a wide range of tactical, operational, and strategic products and services required by DEA and other Federal, State, and local agencies for use in policy development, planning, and enforcement operations, to promote the most effective utilization of resources against national and international narcotics trafficking systems.

#### Major Objectives:

To support DEA law enforcement activities by providing tactical and operational intelligence products and services on drug traffickers, their trafficking organizations and related financial assets.

To provide intelligence support to Federal, State and local law enforcement organizations by means of the interagency resources at the El Paso Intelligence Center (EPIC).

To exchange intelligence information with enforcement counterparts and cooperating agencies worldwide in order to provide optimum support to international drug enforcement operations.

To collect, produce and disseminate strategic intelligence that provides government managers at all levels with the information needed to apply resources efficiently and effectively.

Base Program Description: This decision unit addresses the problem of providing a vigorous intelligence capability for anti-narcotics law enforcement purposes. Narcotics trafficking is now widely recognized as a major international problem. The production, processing and smuggling of narcotic raw materials from source countries, the smuggling and trafficking through numerous transit countries, and finally the marketing and abuse in victim countries are complex criminal activities that result in multidimensional problems for foreign, Federal, State and local law enforcement agencies. To combat this complex situation, governments worldwide have engaged specialized narcotics law enforcement agencies to attack local, area and national narcotics problems. In many instances, governments have also engaged in high-impact multinational enforcement efforts targeted against regional and international narcotics problems. These efforts have taken a wide variety of forms--from direct enforcement action against traffickers and their operations, to enacting special anti-narcotics legislation and participation in major international treaties and agreements.

One significant outgrowth of these approaches has been the development of an intelligence capability for law enforcement purposes. Prior to DEA, intelligence efforts in this area were diffused and sporadic. Subsequent to the establishment of this program, intelligence became systematically used in a variety of roles, principally to describe the scope and dimensions of a particular situation or set of problems, to identify potential solutions (including both vulnerabilities and opportunities); and to support diplomatic, enforcement and prosecutory action.

DEA's Intelligence program continues to provide these services through its various program activities. Through the development of strategic intelligence, this program provides senior managers with the essential background information required to make realistic threat assessments and critical resource allocation decisions. The Intelligence program also provides daily support and assistance to the full range of DEA enforcement activities, including intelligence liaison and exchange with cooperative counterpart enforcement agencies worldwide.

The principal statutory basis for this decision unit is found in Reorganization Plan No. 2 of 1973, which established both DEA and a mandate to develop and maintain a National Narcotic Intelligence System. Other relevant statutes include Executive Order No. 11727, the Attorney General's Order No. 520-73 and Section 503(a) (8) of the Controlled Substances Act (CSA), which directs the Attorney General to "maintain in the Department of Justice a unit which will accept, catalog, file, and otherwise utilize information and statistics, and make such information available for Federal, State and local law enforcement purposes." In addition, the Department of Defense Authorization Act of 1982, P.L. 97-86, contained amendments to the posse Comitatus Act (18 U.S.C. 1385), which liberalized the role DOD elements can play in supporting civilian law enforcement activities. While not a statutory basis for this decision unit, the amended posse Comitatus Act has had an important impact on DEA intelligence activities.

Intelligence program resources have been allocated organizationally to concentrate resources at the most critical support points, principally DEA domestic operations. This decision unit provides support products and services to DEA foreign operations as well, reflecting the multilateral nature of contemporary narcotics law enforcement. Beyond these applications, the Intelligence program is branching into new areas of intelligence and law enforcement interest, among them, financial investigations, communications analysis and selected areas of national security affairs, such as weapons trafficking and international terrorism related to drug trafficking.

The utilization of an intelligence capability for narcotics law enforcement purposes continues to evolve and mature; Intelligence program support duties and responsibilities have widened and diversified along with DEA mission goals and objectives. This decision unit is structured to respond in a timely and flexible manner to requirements and priorities in furtherance of DEA's efforts against trafficking operations worldwide.

**Accomplishments and Workload:** The TACTICAL/OPERATIONAL INTELLIGENCE program provided support to investigations directed against the highest levels of traffickers, their organizations and related financial assets. Support was also provided to the Organized Crime Drug Enforcement Task Force, the National Narcotics Border Interdiction System, and the President's Commission on Organized Crime. Examples of major accomplishments in this program follow:

- Provided analytical support and assistance to the Bogota Country Office in translating and analyzing a myriad of documents seized with 8.5 metric tons of cocaine at a cocaine processing laboratory complex in Transquilandia, Colombia. This intelligence support provided links to other significant ongoing drug investigations.
- Provided continued support for SMO PIPELINES. Now consisting of data from over 70 cocaine and money seizures by the New Mexico State Police, PIPELINE continues to provide valuable insight into traffickers operating between Florida and the West Coast. Because of the PIPELINE success in New Mexico, DEA, including OI and the WESP continue to hold seminars with other state and local police in order to establish similar programs in other states.

- The cocaine packaging program remained active and continued to surface otherwise overlooked valuable investigative leads. For instance, through the application of this program, one investigation in Los Angeles was connected to over 140 other cases involving the seizure of over 45,000 pounds of cocaine; and was the cause of the initiation of a special enforcement operation which was given the highest priority and targetted the highest echelon of Colombian cocaine traffickers.
- Provided analytical support to several related cases involving the traffic in heroin from Lebanon and its distribution by an organized group of Lebanese nationals in several cities throughout the United States. Close to 15 kilograms of heroin have been seized, the U.S. distribution network dismantled and the sources of supply in Lebanon have been identified.
- Played a lead role in identifying a major Pakistani heroin distribution network in the United States, which has resulted in the dismantling of the network through the arrests of 15 of its members and seizures of close to 20. The returned indictment was the first Continuing Criminal Enterprise (CCE) in the state of Nevada.
- Implemented a system for automating the transfer of pen register telephone numbers into computers for analytical exploitation. This system has saved many work-hours that would normally have been spent by intelligence analysts using manual input procedures.
- Continued to monitor, analyze and disseminate intelligence on drug-related terrorist activities worldwide. Exchanges of this intelligence and interaction with other Federal representatives increases.
- Played a lead role in developing, analyzing and distributing intelligence on drug trafficking activities of traditional organized crime elements in the United States, Canada, Europe and South America. Based on file research, analysis of tolls events and modus operandi, extensive knowledge of organized crime involvement in the drug traffic and debriefing of cooperating individuals, contributed significantly to identifying and locating additional violators who were subsequently arrested.
- Because of terrorist threats to DEA in Colombia, established a weekly report on Colombia which focuses on the important issues which concern the safety of DEA agents and which could impact DEA operations.
- Provided technical and intelligence support to bring the Precursor Chemical Information System (PCIS) on line in the MADIS/204 system. PCIS is an automated program to process the extensive information concerning the sales/purchase of precursor chemicals.
- Provided extensive analytical support, participated in conferences, conducted briefings, and informant debriefings in support of several active outlaw motorcycle gang investigations.
- Provided the personnel to conduct an in-depth study of illicit international financial systems used to facilitate worldwide narcotics trafficking. This ambitious effort is aimed at not only describing more accurately the magnitude of the international movement of narcotics-related assets, but also ascertaining the long-range economic ramifications of this trade. Established programs to monitor and disrupt the flow of trafficker funds. Developed programs to educate the U.S. financial community and foreign governments, regarding traffickers' transfer of illicit funds.

The EL PASO INTELLIGENCE CENTER (EPIC) has continued to provide an intelligence clearinghouse for drug enforcement information and a unique form of continuous intelligence support to consumers at the Federal, State and local levels. Notable accomplishments include the following:

- There were 282,757 transactions last year. In addition, EPIC lockouts were instrumental in seizures during 1984 of 15,333 grams of heroin; 36,871 pounds of cocaine; 2,525 pounds of marijuana; 122 pounds of hashish; 55 kilograms of hashish oil; 85 aircraft, and 176 vessels.

- Interagency cooperation facilitated by EPIC increased during 1983-1984 with the States of Montana, Vermont, and Pennsylvania joining into the cooperative agreement. The following Federal agencies are currently EPIC participants: DEA, INS, U.S. Coast Guard, U.S. Customs Service, BMTF, FIA, U.S. Marshals Service, IRS, and the FBI. FBI participation at EPIC continues to expand. During 1983, FBI use of the EPIC data base increased 76% over 1982. Other segments of the Federal Government such as the Department of State, the Intelligence Community, and especially the Department of Defense, work closely with EPIC. The number of states that have signed cooperative agreements with EPIC now totals 50.
  - EPIC has provided 24-hour-a-day intelligence support and coverage to several prominent enforcement activities over the past year, particularly the Caribbean-based interdiction operations as well as the Organized Crime Drug Enforcement Task Force and the National Narcotic Border Interdiction System. Many seizures and arrests were made.
  - In an example of EPIC's contributions to numerous major investigations, 13.8 tons of cocaine was seized in the jungle of Southern Colombia in March 1984.
- The STRATEGIC INTELLIGENCE program provided geographic expertise, assessments, estimates and warnings on drug availability, production, trafficking and trends, to foreign, Federal, State and local authorities. Examples appear below:
- DEA Strategic Intelligence (SIS) publications and recurring reports provide a wide range of Federal, State and local government consumers with timely, thorough accurate coverage of the turbulent underworld of narcotics trafficking. The primary recurring reports, (the MONTHLY DIGEST OF DRUG INTELLIGENCE and the QUARTERLY INTELLIGENCE TRENDS) are global in outlook and approach, with incisive analysis and reporting of the most significant recent developments in the worldwide narcotics traffic. The Intelligence program is also responsible for publication of the annual NARCOTICS INTELLIGENCE ESTIMATE (NIE), NATIONAL NARCOTICS INTELLIGENCE CONSUMERS COMMITTEE compendium of worldwide production, smuggling and trafficking trends and projections. During the past year, significant management improvements were made in streamlining the interagency coordination process, assuring shorter turn-around times for future editions.
  - SIS participated in the collection, analysis and publication of illicit drug abuse and trafficking intelligence for approximately 20 metropolitan areas in the United States. This intelligence and data was collected by DEA sources, through seminars conducted by the National Institute on Drug Abuse, and through a DEA-funded contract with drug abuse researchers in key metropolitan areas.
  - SIS conducted a program in selected cities to obtain heroin "street" samples to monitor retail availability and purity, on the presumptive foreign origins of heroin through forensic analysis.
  - SIS conducted an extensive survey, and published conclusions, regarding the character and extent of domestic marijuana cultivation in over 30 key states.
  - SIS evaluated and disseminated data and analyses of the trends, character and technical sophistication of clandestine dangerous drug laboratories operating in the United States.
  - SIS produced a 135-page WORLDWIDE NARCOTICS THREAT ASSESSMENT, to include 22 special maps and a like number of tables, the first such document of its kind, in direct response to a request from the Office of the Vice-President to provide specifics on the quantities, types, conveyances, MO's routes, etc., used by the international trafficking community to introduce drugs into the United States. This document became the foundation upon which major, multi-agency planning documents and selected operations have been developed. Over 60 copies were sent to members of Congress with other copies being issued to various agencies with a narcotics interest.

- OIS elements provided the initial background research, area expertise and intelligence coordination with non-DEA agencies, all of which were instrumental in assisting DEA field and headquarters operational elements to effect a 10 metric ton cocaine KJL seizure in Colombia, the largest such operation of its kind. The Strategic Section then provided follow-up analysis of the impact of this event and similar operations on the international cocaine market.
- Last year, an OIS-managed Special Field Intelligence Program for Mexico provided significant intelligence regarding illicit opium poppy and cannabis cultivation and trafficking trends in the key country. Assets supported by the program were instrumental in pinpointing a major new concentration of cannabis cultivation and processing activity in close proximity to the United States border resulting in the timely eradication and seizure of 1,900 to 2,400 metric tons of marijuana, the single largest marijuana bust in history and enough to supply about 15 percent of the entire United States market.
- OIS Intelligence gathering efforts implement throughout Africa and subsequent analysis provided the first synoptic overview of the emerging use of this continent as a significant staging area for trafficking illicit narcotics to Western Europe and North America. This effort included a study which identified the need for additional enforcement resources in Africa. This study served as the basis for DEA's decision to open a new field office in West Africa.
- Intelligence analysis resulted in the OIS publication of a comprehensive study outlining illicit drug traffic from the Mid-east to and through Bulgaria. This study was used as the basis for significant initiatives made both by the Congress and Federal law enforcement organizations aimed at eliminating this threat.

Program measures include the following:

Item	Estimates	
	1983	1986
Intelligence Reports.....	750	1,200
Special Field Intelligence Programs.....	1,111	1,200
Enforcement Support Study.....	7	9
Information Responses.....	4,600	6,700
El Paso Intelligence Center Transactions.....	17,000	19,100
	200,000	290,000

1985 Appropriation

Activity: Research and Engineering	Anticipated		1986 Base		1986 Estimate		Increase/Decrease				
	Pos.	WY	Pos.	WY	Pos.	WY	Pos.	WY			
Research and engineering.....	17	16	\$2,351	17	16	\$2,349	17	16	\$2,349	...	...

Long-Range Goal: To support DEA's enforcement and intelligence programs by providing engineering development for technical investigative equipment and research and engineering studies.

Major Objectives:

To increase the quality of investigative evidence by providing quick-reaction "ad hoc" support to current field operations and special services in the areas of evidence tape processing and short-term investigative equipment modification and development.

To develop new or improved technology and procedures to increase efficiency of agency field operations by conducting applied scientific research and engineering development.

To provide scientific and technological information, training, coordination and liaison services for DEA and other law enforcement agencies.

Base Program Description: This decision unit addresses the problem of providing new technology to the operational elements of DEA. As law enforcement has become more effective there has been an ongoing response on the part of criminals to employ advanced technology to protect their criminal enterprises. The base program described in this package provides the studies, systems and devices necessary to counter the increased sophistication of the drug traffickers. DEA's enforcement activities are supported through the development, testing, and evaluation of technical equipment systems and processes designed to meet operational needs and to provide direct field investigative support for special applications. Some of the areas included are: tracking and locating devices for vehicles; surveillance equipment; communication systems planning; and agent protective equipment. The clients served by the Research and Engineering program are primarily DEA's special agents, Planning and Inspection Division, Operations Division, and the Office of Intelligence as well as other Federal, State, local and foreign law enforcement agencies.

The DEA and the FBI have established a joint technology review group to assure that critical law enforcement research and development activities are being pursued and that both agencies are not duplicating their efforts. In addition, all DEA research and engineering activities are coordinated with all other law enforcement, intelligence and defense community technical activities to maximize the benefits of previous research and engineering, to negate any potential for duplicative efforts and to identify areas for joint or cooperative ventures.

As a result of the DEA/FBI technology review process the following areas of agency responsibility have been assigned:

Technology Area	Lead Agency	Technology Area	Lead Agency
Fingerprint Scanning for ADP Security	DEA	Telephone Technology	Joint
Remote Sensor Monitoring	DEA	Recording Devices	FBI
Satellite Communication	DEA	Pager Communication	Joint
Tape Processing	FBI	Power Sources	FBI
Video Technology	DEA	Antennas	Joint
Remote Switches	Joint		
Audio Radio Frequency	Joint		
Dialled Digit Recorder Technology	Joint		
Microprocessors	Joint		

Accomplishments and Workload: The following accomplishment narrative is subdivided in accordance with the three major thrusts of the research and engineering program.

Research and Analyses. This work element attempts to improve the collection of scientific data by the Agency, and to provide analyses of Agency plans, programs, and systems by conducting system analyses, operations research, prototype development and operational evaluations. Further, other analytical methodologies and scientific and technical information are applied where appropriate. Training and liaison services are also provided.

The prototype earth-orbiting satellite radio communication system "SATCOM" has been undergoing extensive use. Several new user sites were surveyed in 1983 and equipment has been installed during 1984 to support DEA field operations. During 1984, a series of tests were completed with the Department of Defense to demonstrate the extent of interference of SATCOM with an existing DOD satellite. Authorization for use of the system is expected in 1986 and development will begin on a second generation system which will provide many technical advantages as well as the potential for "worldwide" coverage.

The prototype evaluation of the Associative File Processor "APP" for EPIC was completed during 1984. In addition, engineering support has been provided to the Office of Information Services during their acquisition of an advanced follow-up version of the APP.

A study was planned in 1984 to evaluate the integration of State and local forensic laboratory data into the DEA drug information data base. This study will be initiated in 1985.

During 1984, a prototype currency counter effort was initiated. This system is based on a revision of a design used by the U.S. Customs Service, with changes to correct its shortcomings and reflect the needs of DEA.

Prototype units of the radio-controlled switch to remotely actuate surveillance devices were delivered in 1984.

During 1984, scientific support was provided to the Cannabis Desk for the development of an Environmental Impact Statement and a herbicide application label to support the use of herbicides to control illicit cannabis cultivation.

An operational systems test of earth orbiting satellite electro-optical sensors for the location of illicit cannabis cultivation was initiated during 1984. The program will also be expanded to explore the feasibility to extend the technique to the detection and location of illicit coca plantations.

New initiatives include: A development of a mathematical model of heroin consumption and two initiatives of a program to develop a covert encrypted communications intercept program.

Technology Development. Technology development involves the application of new and improved technology and procedures to increase the efficiency of agency field operations by conducting applied scientific research and engineering development necessary to meet long-term operational requirements. Major projects underway are discussed below.

Boat Tracking. The purpose of the boat tracking project is to develop systems capable of providing early warning of vessels suspected of carrying contraband cargo which are approaching the U.S. mainland. The initial system which includes Local User Terminals capable of providing vessel position location was operational in 1981. New transmitters were delivered during 1982. During 1983, the Local User Terminals were upgraded for better position location, transmitters were modified for a new satellite, acoustic-coupled data terminals were installed at ERIC and Washington, D.C. and a transmitter test set was procured and tested.

Aircraft Navigation. The objective is to provide the optimum LORAN navigation system for use in marijuana eradication and sea search and surveillance missions. A trade-off analysis was conducted in 1982 and candidate systems procurement, test and evaluation conducted in 1983. Based on this evaluation, quantities of the recommended system have been procured and deployed by DEA operational elements.

VHF Transmitter. The objective of this effort is to develop a miniature, modular, multi-function VHF transmitter which will be compatible with DEA tracking receivers. Engineering development units were completed during 1982 and a production contract for 100 units awarded in 1983. Systems were delivered in mid 1984.

Automatic Phone-number Recording System "APRS". The manual processing of DEA dialed digit recorder tolls is inordinately expensive in manpower and salaries. The purpose of this project is to automate the data collection by collecting the data from up to three dialed digit recorders producing the data on cassette tape. Engineering and operational testing was completed during 1983. A specification for production systems and production contract was awarded in 1984.

Direct Automatic Phone-number Recording System "DAPRS". The DAPRS also reduces the manual processing of dialed digit recorder tolls by processing data from up to 16 dial digit recorders transmitting this data over telephone lines into the DEA PATFINDER II system. Engineering and operational tests of the prototype DAPRS began in early 1984, after which a production contract was awarded.



**Video Surveillance.** This project consists of the design, development, test and evaluation, and field deployment of a wide variety of video systems. During 1982 a video surveillance kit which consisted of a miniature remote controlled surveillance camera with radio frequency data link was developed. Operational deployment of this system was completed in 1983. Twenty additional systems have been requested. In addition, during 1982 design and development of video systems in an attaché case and lamp were initiated. Operational deployment of these systems took place in 1983. Additional production systems were delivered in 1984.

**High Technology Positive Audio System.** The objective of this project is to incorporate state-of-the-art technology into the development of an audio surveillance system. Pre-production receivers were ordered in 1982 and award of a contract for 100 transmitters in 1983. Delivery of the surveillance system was completed in mid 1984.

**Remote Beacon Monitor.** The remote beacon monitor will automatically monitor stationary tracking transmitters and notify agent personnel of any change in status. A contract was awarded in 1982 for one pre-production and ten production systems. The pre-production system successfully completed engineering and operational testing in late 1983. Delivery of production systems is scheduled for early 1985.

**Video Transmitter.** The objective of this project is to develop an enhanced video transmitter/receiver to support enforcement activities. During 1983, an engineering model was designed and developed. Production units were contracted in 1984.

**Carrier Current.** Prototype carrier current systems, which use existing 110 volt power lines to transmit audio, were delivered to DEA field elements for evaluation. During 1983 results of the prototype evaluation were analyzed and a request for 75 systems received. A production contract was awarded in 1984.

**Technical Services.** The objective of this effort is to increase the quantity and quality of investigative evidence by providing quick-reaction technical support for application on current investigations, and to support ad hoc requests for short-term technical development and special engineering services. The output of this program is directed towards more efficient utilization of enforcement resources by minimizing the staffing required to conduct investigative operations, thus improving the quality and quantity of evidence and protection of agent personnel.

Requests for Quick Reaction Support "QRS" are normally originated by a case officer and require a response time from several hours to several days to complete. These efforts are usually conducted in-house and take priority over other longer term research and engineering projects or tasks. In direct support of field operations, QRS includes the design and fabrication of special devices and transmitters such as the concealment of transmitters in assorted packages, the preparation of pseudo-randomizer, and audio tape recording enhancement which significantly enhances the audio intelligibility of evidence tapes. Off-the-shelf hardware or pre-existing techniques and materials are used exclusively for these efforts.

The direct application of technology to specific short-term tasks is also accomplished under the technical services objective. These efforts consist of applying state-of-the-art techniques to the development of surveillance equipment and systems. Tasks are accomplished using a combination of in-house and contract personnel and require from one to eight months to complete. Examples of this effort include the design, fabrication, test and evaluation of: special timers and motion sensors; audio systems secreted in common packages such as cigarette packs; and video systems packaged and camouflaged in such a manner as to make their presence difficult, if not impossible to detect.

During 1984, 175 QRS requests and 7 technical services tasks were accomplished. Estimated accomplishments for 1985 are 175 QRS requests and 7 technical service tasks.

Activity: Support Operations	Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount
DEA laboratory services.....	190	178	\$12,202	190	178	\$12,222	190	178	\$12,222	...	...	...

**Long-Range Goal:** Provide support to the Enforcement, Intelligence, and Diversion Control activities related to the mission of DEA. Enforcement activities are supported through the timely analysis of drug evidence and presentation of expert testimony in court, by providing field assistance to agents on clandestine laboratory investigations and vacuum sweeps, and conducting ballistics, in-depth and signature analyses for the development of conspiracy cases and in assessing the distribution of DEA enforcement resources. Intelligence activities are supported through heroin signature analyses to determine the origin of controlled substances and foreign drug distribution patterns and through signature analyses of Domestic Monitor program evidence to monitor domestic drug distribution and price/purity data at the retail level. Diversion control activities are supported through ballistics examinations which provide information on illegal distribution of illicitly produced drugs to identify possible illegal activity by Controlled Substances Act (CSA) registrants, and through field assistance in conducting inspections of CSA registered firms.

This division unit also addresses support to other Federal law enforcement agencies that do not have their own forensic drug examination capability or who require the special expertise of DEA forensic scientists, and provides forensic drug laboratory support to the Federal Bureau of Investigation (FBI) which has concurrent jurisdiction for the enforcement of Federal drug laws. Additionally, other Federal and foreign drug law enforcement officials will receive the training and assistance required to complement and enhance the mission of DEA.

#### Major Objectives:

To comply with the Speedy Trial Act of 1974 through timely analysis of DEA and FBI drug evidence.

To contribute to the successful prosecution of drug law violators through the presentation of expert testimony in court.

To provide field assistance "clandestine laboratory investigations and seizures and vacuum sweeps" to DEA and FBI special agents.

To assist DEA and the FBI in the development of conspiracy cases, the monitoring of foreign drug distribution patterns, and the determination of origin of controlled substances in illicit channels by conducting in-depth and signature analyses.

To provide information on the retail level price and availability and the domestic distribution patterns of heroin through signature analysis of Domestic Monitor program evidence.

To conduct ballistics examinations on DEA and FBI evidence "tablets, capsules, and papers" to identify common origins of clandestinely produced dosage units and to identify illicitly manufactured dosage units diverted to the illicit market.

To improve forensic capabilities of law enforcement agencies worldwide by conducting a series of technical assistance programs, providing leadership in international communications among forensic scientists, and assisting foreign countries in the prosecution of drug law violators.

To assist other Federal agencies that require DEA laboratory expertise in forensic drug examination.

**Base Program Description:** This decision unit addresses the problem of support to the enforcement, intelligence, and diversion control activities related to the mission of DEA. Enforcement activities are supported through the timely analysis of drug evidence and presentation of expert testimony in court, by providing field assistance to agents on clandestine laboratory investigations and vacuum sweeps, and conducting ballistics, in-depth and signature analyses for the development of conspiracy cases and in assessing the distribution of DEA enforcement resources. Intelligence activities are supported through the heroin signature analyses to determine the origin of controlled substances and foreign drug distribution patterns and through signature analyses of Domestic Monitor program evidence to monitor domestic drug distribution and price/purity data at the retail level. Diversion control activities are supported through ballistics examinations which provide information on illegal distribution of illicitly produced drugs to identify possible illegal activity by Controlled Substances Act (CSA) registrants, and through field assistance in conducting inspections of CSA registered firms.

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The DEA forensic laboratory system, which is comprised of seven field laboratories and the Special Testing and Research Laboratory is responsible for accomplishing the following: analyzing drug evidence; providing expert scientific testimony for prosecutive purposes; participating in clandestine laboratory investigations and seizures and providing photographic capabilities; providing examinations for latent fingerprints; conducting vacuum sweeps for traces of drugs; conducting in-depth and signature analyses of drug evidence; providing scientific assistance; conducting ballistics examinations of tablets, capsules and papers for source identification; and conducting special training.

The DEA Laboratory Services program utilizes the System to Retrieve Information from Drug Evidence (SRIDE) which is described more fully under the ADP and Telecommunications program. This is a series of inter-related computer systems designed to support enforcement and intelligence operations through the processing of data generated by the DEA laboratories. SRIDE provides data regarding evidence examined by DEA laboratories to produce information which is used to determine trends in drug abuse and trafficking of narcotics, to warn of new drugs of abuse, and to identify common sources of illegal drugs. This system is also used to provide information on illegal distribution of illicitly produced drugs, data on the availability of drugs on the street, statistics on drug removal, and a system for monitoring the location of evidence. Information from the system is provided to local, State, Federal, and foreign law enforcement agencies. SRIDE is also a management tool to assist in measuring laboratory effectiveness and allocating resources. The subsystems of SRIDE are: laboratory analysis program, ballistics program, laboratory manpower utilization program, and evidence inventory program.

The expeditious analysis of drug evidence submitted by DEA and FBI special agents and the presentation of expert testimony in court is essential to the successful investigation and prosecution of drug law violators and is therefore the primary purpose of the DEA laboratory system. The timely analysis of drug evidence is an integral aspect of DEA's compliance with the Speedy Trial Act of 1974.

DEA forensic chemists also provide field assistance (clandestine laboratory investigations and seizures and vacuum sweeps) to DEA and FBI special agents and field support to DEA Diversion Control Investigators.

DEA's laboratories are called upon with increasing frequency to provide information on the retail level availability of illicit drugs and trends of the United States illicit market. The Domestic Monitor program requires subjecting street level heroin samples to source analysis as well as qualitative and quantitative analysis to obtain price/purity data. This approximately triples the time of analysis for each exhibit, but provides strategic intelligence information on area of origin determinations in addition to availability data at the retail level.

The DEA and FBI laboratory systems each have separate functions and unique expertise in the field of forensic science. When used together for the scientific analysis of evidence in drug investigations, they provide an expanded capability to the enforcement activities of both agencies for virtually complete forensic analysis. The DEA laboratories conduct qualitative and quantitative chemical analysis on drug evidence and the FBI laboratory provides numerous criminological examinations which are performed on the non-drug evidence resulting from these investigations. The individual expertise of the two laboratory systems complement one another and result in improved efficiency for the overall drug law enforcement effort.

Additionally, DEA laboratories assist other Federal agencies such as the Coast Guard, Naval Investigative Service, Army Criminal Investigative Division, Marine Corps, National Park Service, Immigration and Naturalization Service, and General Services Administration through the analysis of drug evidence, providing of court testimony, and training.

Accomplishments and Workload: In support of DEA drug investigations during 1981, the DEA laboratories analyzed 26,228 exhibits of evidence, testified in 646 trials, conducted 825 ballistics examinations, provided field assistance on 119 occasions and conducted 900 Heroin Signature analyses and 364 Domestic Monitor analyses.

Program measures include the following:

Item	Estimates		
	1983	1984	1985
Drug exhibit analyses.....	25,624	26,228	25,200
Ballistics examinations.....	1,245	825	1,050
Heroin Signature Analyses.....	822	1,007	850
Training conducted.....	1		1
Court appearances.....	658	681	690
Field assistance on clandestine laboratory raids.....	145	119	150
Evidence turn-around time (days).....	13	13	13
Evidence backlog.....	1,228	1,275	2,775
Domestic Monitor program exhibit analyses.....	498	389	650
Issues of Microgram.....	12	12	12

Activity: Support Operations Subactivity: DEA Training	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated											
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
DEA training.....	34	33	\$3,499	34	33	\$3,493	34	33	\$3,493	...	...	...

Long-Range Goal: To develop and maintain a sophisticated and professional workforce to perform the tasks inherent to the DEA mission and to provide leadership in drug law enforcement by providing entry-level and specialized training for DEA personnel.

Major Objectives:

Provide entry-level training for special agents, diversion investigators and intelligence analysts.

Provide advanced, in-service and specialized training to both core and non-core disciplines at the Federal Law Enforcement Training Center, Glynco, as well as at posts-of-duty.

Provide executive, mid-level management training and supervisory training for appropriate personnel of all disciplines within DEA.

Provide foreign language training for DEA personnel assigned to overseas and border offices.

Provide video tape training programs for use throughout DEA.

Base Program Description: This program provides entry-level and specialized training for DEA personnel to build and maintain a sophisticated and professional workforce capable of providing leadership in drug law enforcement. This training will ensure the availability of well-trained personnel to perform those functions as mandated to DEA by the Controlled Substances Act of 1970 in a manner that takes advantage of the most modern and innovative techniques known to counteract increasingly sophisticated drug traffickers. Operational personnel must receive training at all levels of career development in order to perform the specialized tasks unique to the Drug Enforcement Administration.

Entry-level curriculum for special agents would normally consist of seven weeks of training provided by FLETC instructors in the Criminal Investigators School (including firearms, physical training and the driving range) and an additional seven to eight weeks of drug law enforcement training provided by DEA instructors. However, this established curriculum was modified in 1983 to accommodate the high influx of new agent personnel. The length of each class has been reduced from 15 weeks to 12 weeks, and certain courses were deleted or abbreviated from the FLETC Criminal Investigators School curriculum. The high standard and quality of overall training received by entry-level special agents, however, has not been sacrificed. With the exception of courses requiring specialized facilities, all instruction in the accelerated program is being provided by DEA personnel. A seven-week entry-level program has been developed for diversion investigators which provides them with the knowledge and skills required to effectively reduce the diversion of legitimately manufactured controlled substances. Expectation of a sufficient number of entry-level intelligence analysts for 1985 resulted in a planned two-phase, 4-week program. Phase I is intended to familiarize new intelligence analysts with drug enforcement responsibilities and methods of operation to provide a proper context for their specialized training. Phase II is the technical training in intelligence analyzing techniques as applies to drug law enforcement.

A variety of specialized training is provided in DEA's in-service advanced and refresher program offered to special agents, diversion investigators, intelligence analysts and chemists. This training is provided by both government and non-government sources. Asset removal for instance, requires instruction from representatives of banking and financial institutions, real estate experts, U.S. Attorneys, and the FBI, as well as DEA's most experienced investigators in this field. This broad range of instruction is essential to a complete understanding of financial investigations and transactions related to money laundering such as collections, letters of credit, wire transfers, "chips" and associated matters involved in asset removal activities. This is a modern investigative technique which must be thoroughly understood and utilized by DEA special agents. The effectiveness of this investigative approach is being increasingly demonstrated in prosecutions against high-level violators.

Marine Law Enforcement training, which is provided by FLETC and DEA instructors, provides DEA with the capability to more effectively inspect the large-scale smuggling of drugs and narcotics by boat throughout all coastal areas of the United States. This training not only results in increased interdiction of drugs and narcotics on the waterways, but also ensures the safety of DEA special agents while involved in marine law enforcement activities.

The clandestine laboratory training program is designed to enhance DEA's effectiveness in eliminating the illegal manufacture of dangerous drugs throughout the country. Quality classroom instruction provided by DEA specialists in this area is further reinforced by the actual synthesis of controlled substances performed in a fully equipped clandestine laboratory which DEA has provided at FLETC.

Recurring and specialized training is provided to all DEA pilots. Initial instruction training is received for new aircraft, i.e., the new turbo-prop helicopters; recurrency or qualification training is provided as required and a variety of aviation-related courses such as FAA instructor training, a physiological course on pressurization, an engine familiarization school, and a land and water survival course are offered to ensure the safety of DEA's airwing.

To ensure that DEA's workforce possesses the abilities and skills required in drug law enforcement, specialized training is provided in the application of technical investigative aids, polygraph examining, covert transponder installation, firearms instructor training, advanced law enforcement photography, and intelligence collection and analysis.

This decision unit is also responsible for funding all language training of DEA personnel prior to their being assigned to a foreign post-of-duty. The length of this training varies depending on the current ability of the student and the complexity of the language involved.

All course developers/instructors assigned to DEA's Office of Training staff receive two weeks of basic instructor training which, together with their experience and expertise in drug law enforcement, renders them qualified to perform in a training capacity. The basic instructor training is also provided to the divisional training coordinators who conduct DEA in-service training programs in the field as well as State and local police training.

It is a requirement within DEA that all newly assigned supervisors receive appropriate training. Supervisory training is provided in Washington, D.C. as is management training at both the mid-level and executive level. The Headquarters training office also monitors and controls all professional, administrative, technical and clerical training (PATCO) received by DEA employees in many diverse subject areas and from a variety of sources as their functions and responsibilities dictate.

All of the aforementioned training programs are intended to provide DEA employees with the skills, knowledge and abilities to better perform their respective functions and enable them to do so under circumstances that ensure their safety and well-being. The mission of DEA is far too important, complex and dangerous to be levied upon personnel who have not received sufficient training. To do so would render a serious disservice to the agency and to its employees.

**Accomplishments and Workload:** Five Basic Agent classes, with an estimated 40 students per class, are scheduled to be completed in 1985. Two additional are currently scheduled to begin during the last quarter of 1985 in anticipation of a significant increase in this figure for 1986.

Seven basic agent classes were held in 1984 for 206 students. Notwithstanding the heavy workload, DEA's academic program for entry-level training has maintained high quality instruction, professionalism and effectiveness in preparing individuals to perform the functions of a criminal investigator with the Drug Enforcement Administration.

Approximately 228 core discipline DEA employees and a select number of State and other Federal law enforcement officers received asset removal training in 1984. DEA intends to continue emphasis in this important area throughout 1985 and 1986.

During 1984, 10 DEA employees attended the Foreign Language Institute in Washington, D.C., for foreign language training 66 employees received language training from the private sector at their domestic posts-of-duty prior to reporting overseas, and 62 employees and dependents received language training at their respective posts-of-duty. Increased enrollment in language training is anticipated in 1985.

Two electronic aids training schools, a basic and an advanced, were conducted in 1984, and the same has been scheduled for 1985. Additionally, DEA will continue, as an on-going program, technical officers training conference. In 1984, a covert transporter installation course was developed and conducted for the first time. This also will continue as an on-going program.

Both executive management and supervisory school curricula have been revised to place more emphasis on DEA-related topics. A total of 148 employees received training in these areas during 1984 with 195 projected for training in 1985.

In-service core training programs were held for 3,862 participants in 1984. Fifteen special agents attended a clandestine laboratory school in 1983. A revision and updating of the clandestine lab oratory curriculum was accomplished to fully meet the needs of the field agents in this important area. Three clandestine lab schools were conducted in 1984 with a total enrollment of 60 students which included a number of FBI agents. Fourteen special agents oratory completed the three-week marine law enforcement school in 1984, which represents a 100% increase over 1983. This program is again being emphasized in 1985 with a projected enrollment of 50 students. General and specialized training was given to 800 professional/administrative, technical/operational employees in 1984. DEA's audio visual function was transferred to Olmsted in 1983 with full staffing completed by the end of 1984. Optimum performance in this area should be attained in 1985. Due to the relocation and staffing situation, only one ISITR program was produced in 1983 and one is projected for 1985.

DEA is in the process of acquiring many new and sophisticated equipment items designed for office automation, telecommunications and data base management information systems. The complexity of the systems will require continuous on-site and off-site training. A task force has been established to address this issue which is further discussed in the request level section of this suballotment.

DEA is in the process of acquiring many new and sophisticated equipment items designed for office automation, telecommunications and data base management information systems. The complexity of the systems will require continuous on-site and off-site training. A task force has been established to address this issue which is further discussed in the request level section of this submission.

Program measures include the following:

Item	Estimates		
	1983	1984	1985
DEA personnel:			
Entry-level training participants (SA's, IA's, DO's).....	207	294	430
Post of Duty In-Service participants (all training for ODS and PATCO not in DEA scheduled schools at Olmsted or Washington, DC--			
Includes foreign language training.....	4,174	5,705	4,676
Advanced and Specialized Skills Participants (DEA conducted schools located at Olmsted and Washington, D.C.).....	717	403	804
Audio-visual instruction productions (ISIT).....	1	3	10
Total.....	5,098	6,402	5,910
			4,930



1985 Appropriation  
 Anticipated  
 Activity: Support Operations  
 Subactivity: Technical Operations  
 Technical operations.....

1985 Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
Pos.	WT	Pos.	WT	Pos.	WT	Pos.	WT
185	177	\$22,085	185	177	\$22,197	185	177
						\$22,197	\$22,197

Long-Range Goal: To support the mission of DEA by providing radio communications and technical/investigative systems, equipment and personnel in support of enforcement activities; and provide responsive and effective air support to DEA investigations.

#### Major Objectives:

- To provide support, whether it be direct technical/investigative assistance or equipment, at all levels of DEA's law enforcement activities.
- To provide sufficient technical personnel to properly maintain, install, and monitor the performance of DEA's investigative and radio communications equipment.
- To provide sufficient radio communications resources to support DEA law enforcement activities.
- To meet DEA's long range communications needs by operating a High Frequency/Single Side Band (HF/SSB) network.
- To ensure the training of special agents and technical personnel on technical investigative and radio equipment.
- To maintain an accurate inventory of technical, investigative, and radio communications equipment to ensure the maximum utilization of equipment by DEA law enforcement personnel.
- To assist other Federal, State, and local law enforcement agencies with equipment and expertise on a priority basis.
- To install and maintain a voice privacy network on DEA's UHF and HF/SSB radio communications equipment.
- To maintain an established aircraft fleet of sufficient size and appropriate operational characteristics to support the DEA enforcement mission requirements.
- To maintain a cadre of properly qualified and safety conscious agent/pilots, who possess a thorough knowledge and understanding of the DEA enforcement mission and the requirements of the DEA units they support.
- To employ DEA aviation resources in the most effective and cost beneficial manner for maximum agency accomplishments.

Base Program Description: The Technical Operations program supports DEA law enforcement personnel by allocating radio communications and investigative equipment resources to support enforcement requirements.

Special agents and technical personnel are assigned to headquarters and to designated domestic offices. Special agents are also assigned to foreign country offices as foreign technical officers.

The special agents and professional/technical personnel assigned in this program in DEA field offices fall under the direction of a Technical Operations Officer. The technical officer ensures that available equipment and personnel are strategically and rapidly deployed to best support law enforcement activities. Because of the limited quantities of equipment and personnel resources, special agent and technical personnel must travel extensively and equipment must be rapidly shipped from office to office to support enforcement activities.

Technical radio communications are provided by a nationwide USP law enforcement radio system consisting of mobile, portable and fixed station radios. The DEA ERP radio system provides support for surveillance, license plate queries, suspect information queries and emergency or potentially dangerous situations.

Long-range communications support is being accomplished by a combination of DEA-owned mobile and base station high frequency single side band (HF/SSB) radios, and the contracted services of Rockwell Collins in Cedar Rapids, Iowa. The Collins' control center in Cedar Rapids provides support 24-hours a day for DEA's long range communications.

A wide-range of technical investigative equipment is available to support and enhance investigations, including video surveillance systems, audio transmitting devices, audio recorders, Title III devices, covert tracking devices and others. These investigative aids are used to improve DEA's investigative capabilities and to provide greater safety for DEA personnel.

DEA Technical Operations personnel and their counterparts with the FBI are working closely through the Organized Crime Drug Enforcement Task Force (OCDETF), meetings and study groups to ensure that each agency's technical resources are being used to provide maximum support to the Federal drug law enforcement effort. In that direction, the DEA and FBI radio systems are being compared and analyzed to determine all potential areas for combined operations. Meetings are being held to compare radio voice privacy implementation programs currently being conducted by both agencies. DEA Technical Operations personnel have also attended schools at FBI technical training facilities to further their expertise.

The DEA's Aviation program consists of 51 operational aircraft, including a twin-engine turbo prop aircraft which was delivered in 1984 to support long-range over water intelligence gathering missions.

The Aviation program is structured to support four operational areas, the western area, southwestern area, northern area and the southeast area with each supervised by an area supervisor. It is the responsibility of each area supervisor to direct the activities of all special agent/pilots physically assigned to his geographical area, including reserve pilots during their involvement in flight operations. The supervisors, in turn, report to and receive supervision from the Deputy Chief Pilot. The responsibility for the overall management of the program rests with the Chief, Aviation Unit based at Headquarters, DEA, Washington, D.C.

The DEA Air program provides support in the following areas; air-to-surface surveillance of drug investigations; investigations requiring undercover aircraft and pilots; air-to-air surveillance of aircraft suspected of being used in illegal drug activities; as a communications

command and control relay station in remote areas or widely dispersed investigations; transportation of investigative teams, equipment, or evidence for time critical operations or to remote sites not served regularly by commercial carriers; ferrying of aircraft and flights to develop or modify drug enforcement techniques. In addition to the above, other functions for which DEA aircraft are utilized include, recurrency training, evaluation of safety procedures including cockpit workload and coordination, initial pilot qualification checks and aircraft performance evaluation following maintenance.

**Accomplishments and Workload:** The program elements of this decision unit continue to play a vital role within the Drug Enforcement Administration. Technical/Investigative, radio communications, air support, polygraph support and boats are actively sought to support DEA's most complex investigations and are not routinely used in all phases of enforcement operations, to enhance investigations and provide a safer environment for DEA's law enforcement personnel.

In 1983 and 1984, Technical Operations program personnel and equipment actively participated in the Vice President's Task Force providing air support for the identification and location of suspect vessels and aircraft; tactical and long range communications; polygraph examinations; video, Title III and other investigative aids; and boats to support the marine requirements of this Task Force. All activities have been coordinated with the other Task Force participants, including the U.S. Customs Service, the U.S. Coast Guard and U.S. military elements. Technical Operations aircraft, pilots, technical personnel and equipment supported Operations TWA/PA and BMT and the Domestic Marijuana Radiation program.

In 1984, Technical Operations technical/investigative personnel directly assisted in 1,325 investigations. Approximately 90 percent of these efforts supported Class I and II level investigations.

The use of Title III devices, 24-hour covert video installations, audio devices and other investigative aids increased dramatically again in 1984. In 1986, DEA plans to initiate 85 Title III's using current resources. The decision unit's inventory of 300 dialed number recorders is in constant use in each domestic office supporting major conspiratorial investigations.

In 1983, sufficient WPP voice privacy radio communication equipment was purchased to equip all of DEA's West Coast Divisions, i.e., Los Angeles, San Diego, San Francisco and Seattle. Installation of this equipment was accomplished in 1984. Also in 1983, WPP voice privacy radios were purchased to provide radio communications for DEA agents assigned to the Organized Crime Drug Enforcement Task Force (OCDETF). DEA agents will also be assigned WPP voice privacy radios for operation on channels provided by the FBI for all OCDETF participating agencies. In 1984, DEA purchased voice privacy equipment for its Miami, Atlanta and Washington, D.C. Divisions.

The number of air missions completed rose from 5,150 in 1983 to 5,867 in 1984. Twin-engine aircraft were used extensively in over-water search missions and in international operations which accounted for 35 percent of the total flight missions. As a direct result of air operations the following accomplishments were realized:

- 45 clandestine laboratories were seized in 1984. In many instances, aircraft were the only effective means of detection and surveillance of these laboratories because of their location in remote, almost inaccessible areas.
- 54 aircraft, 37 vessels and 401 vehicles were seized in 1984.

In 1984, 275 polygraph examinations were performed to support DEA investigations (240 examinations were performed in support of enforcement operations and 35 to support internal security investigations). The polygraph continues to be an increasingly important tool for supporting major enforcement investigations. As an example, of the 119 examinations performed in 1979, only 54 percent were performed in support of enforcement investigations; in 1984, 84 percent of all examinations were performed in support of enforcement operations.

Program measures include the following:

Item	Estimates			
	1982	1983	1984	1985
Technical operations direct case support.....	1,350	1,250	1,325	1,350
Aviation missions requested.....	7,850	6,605	7,267	7,950
Aviation missions completed.....	6,067	5,150	5,867	6,067

Activity: Support Operations Subactivity: Automated Data Processing and Telecommunications	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Permt.	NY	AMOUNT	Permt.	NY	AMOUNT	Permt.	NY	AMOUNT	Permt.	NY
ADP and telecommunications.....	180	113	\$18,175	180	113	\$18,099	120	113	\$18,099	...	...

**Long-Range Goal:** Increase the productivity of DEA original, compliance and inspection investigators and their supportive elements through acquisition and enhancement of automatic data processing, management information systems (MIS), record communications and office automation.

#### Major Objectives:

To support, where applicable, statutory requirements of the Controlled Substances Act of 1970 (Public Law 91-513) and the President's Reorganization Plan Number 2 of 1973.

To increase productivity and decrease the strain on manpower through automation of applicable processes now accomplished in a labor intensive climate (i.e., office automation).

To reduce downtime, maintenance and new applications development time through use of commercially available Data Base Management Systems and other state-of-the-art technology.

To maximize use and sharing of DEA automated information through standardization of hardware, software and data base data elements.

To increase the reliability, scope and security of DEA data transmissions while reducing telecommunication line costs.

To expend the number of users of DEA ADP/Telecommunication capabilities, both foreign and domestic.

To maintain the capability to rapidly respond to new and/or unanticipated operational requirements affecting the mission of the DEA and to support other DEA programs in accomplishment of their missions.

To introduce into DEA as quickly as possible, the changes and enhance in the state-of-the-art in ADP, Artificial Intelligence, Decision Support Systems, MIS, Communications and Office Automation that will provide assistance to DEA in accomplishing its missions, goals, and objectives.

**Base Program Description:** The ADP and Telecommunications program provides for the implementation of modern Data Base Management Systems (DBMS) which provide for retrieval capability that can establish relationships between various DEA data bases while also, significantly improving the ability to query any field within these data bases. This increased retrieval capability is being made available to a larger number of DEA offices, both domestic and foreign, through an expansion and increased sophistication of the DEA ADP Teleprocessing and Records Communications System. Standardization of software, data elements and query procedures will reduce the developmental and maintenance time of the ADP staff and the training and query time of the user. The highly flexible nature of DBMS, their ease of programming and "user friendly" characteristics provide an increased capability to support routine and new DEA investigative, mission and operational requirements. A feasibility study conclusions support the integration, consolidation, and further automation of DEA's routine

office functions. Involved are such currently independent disciplines as data, record and word processing; data communications; micrographics; reprographics and associated technologies. DEA will procure, install, operate and evaluate a pilot fully automated office automation information system for the intention of satisfying the identified requirements in an economical and productive manner. After a successful pilot, the system will be implemented throughout DEA's domestic offices. It has been determined that DEA should have a fully encrypted and tamper proof protected office, data processing, teleprocessing and telecommunications system, if DEA is to receive, process and transmit National Security Information necessary to perform its mission. The total encryption and tamper proof security of DEA's ADP office automation, teleprocessing and telecommunications will provide maximum protection to both National Security Information and DEA sensitive investigation information. In addition, it will allow direct interchange of classified data with the Intelligence Community as required for drug investigations.

The following are brief descriptions of the DEA ADP/Telecommunications Systems:

- **MAUDIS AND DAMBERS DRUGS INFORMATION SYSTEM (MAUDIS).** This is the major Informant Support System for DEA. This data base, which consists of about 1.2 million records on persons, businesses, ships, aircraft and certain airfields, is the centralized index of all DEA investigative reports. MAUDIS enables an authorized user to determine the subject's past criminal activity or associations which have been documented by DEA agents, and provides references to the location of further information on the subject of the query. Due to the worldwide, transient nature of illicit drug operations, it is not unusual for a single individual to be documented by DEA criminal investigators in various parts of the world. MAUDIS, therefore, provides not only background information on individual subjects of interest to DEA, but also supports conspiracy investigations by showing linkages between individuals and separate DEA investigations. Use of a DBMS has significantly expanded the capability of the Intelligence analysts and agents to develop these linkages and, therefore, to develop new investigative leads.

MAUDIS is accessed via the DEA Automated Telecommunications System (DATS) by over 500 terminals located nationwide and in 17 foreign nations. Current plans call for additional overseas terminals to be located in other European, South American, Middle East and Asian countries via a Secure Telecommunications System operated by the State Department. MAUDIS operates on the TRIM configuration at the Justice Data Management Center (JDMC). This provides the capability for remote entry on DEA's IBM 4341-412 computer for MAUDIS batch (index updating) transactions, and printing of all MAUDIS ADP reports.

MAUDIS operates under the IBM Customer Information Control System (CICS) environment on the JMD 4040 9632 computer. MAUDIS is interfaced via DATS with the FBI National Crime Information Center (NCIC) Wanted Persons File, Stolen Gun File and Criminal History Summary File. It is indirectly interfaced with the Stolen License Plates File and Stolen Vehicle File using the JUST network.

- **INFORMANT MANAGEMENT INFORMATION SYSTEM (IMIS).** IMIS provides a method of tracking specific DEA investigations to determine management information. It includes the capability to evaluate case activity, status, agent manpower use, and confidential source utilization by the Operations Division. IMIS is being developed in two phases. IMIS I primarily involves the purchase of evidence, which enables DEA to determine whether money seized as evidence includes currency previously expended by DEA for the purchase of evidence. This system has provided probable cause for seizure of such funds. IMIS II, the Case Status application, will provide rapid access to and summarization of case and drug violator class statistics. IMIS II will provide information on the utilization of Intelligence analysts, compliance and criminal investigator resources under the Manpower Utilization application. Information will also be provided on the current status of DEA use of confidential sources of information. These applications were completed in June 1982. IMIS I and II will.

automate and widely disseminate information which was previously prepared manually and had only limited use due to the lack of accessibility by other DEA personnel. The ENIS system is accessible on-line through the DMS network and operates on the JMWG Model 5662 computer.

- **PATFINDER II.** PATFINDER is a component of the National Narcotics Intelligence System, mandated by the President's Reorganization Plan Number 2 of 1973. DMS provides DEA with centralized automated storage, retrieval and analysis of law enforcement intelligence information relevant to illicit drug activities. Intelligence and enforcement personnel access the system via on-line terminals. The data bases include information on individuals, activities, events, aircraft, vessels, movement reports of individuals and associated drug distribution networks. It includes a graphics output capability. PATFINDER information is made available to other Federal, State and local law enforcement officials who have a proper need-to-know and are signatory members of the El Paso Intelligence Center (EPIC). Data input is accomplished by both on-line and batch methods to the Digital Equipment Corporation 11/70 computers at DEA Headquarters. PATFINDER also has the ability to query on-line, the NADIS System. PATFINDER access has been expanded to nineteen domestic and one foreign DEA offices.

The highly flexible nature of the PATFINDER DMS software has provided DEA with the capability to rapidly design files to support special investigations. Examples of these investigations include the Judge Wood assassination, Operation Impact and support to various OBTNCS.

Starting in 1984 and continuing into 1985 PATFINDER will be converted to operate under DMS model 204 greatly expanding the number of stations that can access the system. The El Paso Intelligence Center (EPIC) is supported by a Data Point 8800 computer. EPIC provides PATFINDER with weekly tape dumps of their files which are then mailed to Headquarters for processing.

- **CONTROLLED SUBSTANCES ACT SYSTEM (CSA).** The Office of Diversion Control is supported by the Controlled Substances Act System (CSA). CSA is used to control the registration and annual re-registration of more than one half million legitimate sources of federally controlled drugs. The volume of data this statutory requirement imposes precludes manual processing. The system was established to implement the provisions of the Controlled Substances Act of 1970 (P. L. 91-513), requiring that all legal handlers of controlled substances annually register with the Department of Justice. The system processes new and renewal applications for registration, applies changes to previously established master records, issues order forms for the purchase, sale, or transfer of Schedule I and II controlled substances, and produces various fiscal accounting, control, and statistical records. The master records contain information on legal handlers of controlled substances including name, address, DEA registration number, business activity, initial issue date of registration, expiration date of registration and drug schedules authorized. The CSA data base is used by suppliers for verifying physician and hospital requests order forms prior to delivery of controlled substances. The verification consists of an on-line inquiry by a DEA compliance investigator, into the CSA data base via the DMS network. Data preparation, data editing and printed output are accomplished at DEA Headquarters using the DEA IBM 4341-M12 computer system. Because of the size of the CSA master file over 670,000 master registrant records and the necessity of on-line access through DMS, the data base is maintained and processed at the JMWG. The CSA system is being converted to operate under DMS Model 204.

- **SYSTEM TO RETRIEVE INFORMATION FROM DRUG EVIDENCE (STRIDE).** STRIDE supports DEA by processing information derived from drug evidence. This system supports DEA agents and intelligence, Enforcement, Administrative and Laboratory personnel, primarily through monthly and quarterly reports of drug trends. STRIDE provides data resulting from forensic examination of drug evidence for tactical and strategic intelligence as well as planning and management purposes. The system is used to detect unusual occurrences and other matters related to drug intelligence. STRIDE consists of three subsystems: Manpower Utilization, Laboratory Analysis, and the Ballistics program. The

Manpower Utilization program is used by the Forensic Sciences Division as a management information system to produce a monthly report of hours spent by chemists and laboratory technicians on various tasks, such as drug analysis, court appearances, training, assisting agents and research. The Laboratory Analysis program is based on data developed by DEA forensic chemists, such as the controlled substances present, other constituents in the material and certain physical characteristics. The Ballistics program is based on the physical and chemical comparison of tablets and capsules. Data derived by the forensic analysis of drug evidence throughout the DEA Laboratory system are input via computer terminals located in each laboratory by scientific intelligence technicians. The system is available for on-line queries to determine characteristics of drugs obtained during an investigation. SMRUS and Ballistics derived information is used to link investigations based on the similarity of exhibits and provides strategic intelligence on worldwide illicit drug trends. The SMRUS system is being converted to operate under the DBMS Model 204.

• **DEA ACCOUNTING SYSTEM (DEAS).** The system was developed to automate highly labor intensive accounting and personnel functions. These include DEA funds obligations, expenditures, costs, and revenues for which program managers are responsible, generation of financial reports to meet internal needs and external requirements and to provide a basis for developing and reporting costs in accordance with programs, budget activities, special projects and organizational cost centers. The system is administration-wide, incorporating budget and financial data of domestic offices, foreign offices, laboratories, intelligence center, aircraft section, and Headquarters activities. DEAS does not interface directly with the Department of Justice Accounting System. It does, however, use an abbreviated version of the DEA payroll file from the DOJ Payroll System as input on a bi-weekly basis. Detailed accounting transactions are transmitted via the DBMS network to the JMW and are collected for a batch processing update. Information is derived from basic documents such as allotment advices, operating plans, payroll data files, obligation documents, receipts documents, accrual documents, reimbursement agreements, manpower activity reports, and expenditures/disbursement documents. Foreign documents are mailed to Headquarters where they are centrally input. Batch processing updates are scheduled by DEA personnel via the Conversational Monitor System (CMS) on-line at the JMW Center or through the JMW 131-412 Job Entry Sub-System (JES) facility. Reports are generated at DEA Headquarters on the JMW 131-412 and are disseminated to the various offices and program managers as required. Much of the current manual logging, document control and processing status of each document is now being included in an automated control system that is currently being developed by DEA.

• **TELECOMMUNICATIONS.** DEA has a requirement to support investigations of illicit drug operations worldwide. The highly transient nature of subjects under investigation requires the support of a worldwide, rapid and Secure Record Communications System. DEA's requirements, both domestic and foreign offices, for secure voice, secure teletypewriter, facsimile and general communications are satisfied by the following:

-**SECURE VOICE.** Two secure voice devices are located at DEA Headquarters and EPIC, and is currently being expanded to selected DEA domestic offices. The equipment meets national cryptographic requirements, and provides DEA intelligence and enforcement personnel with the capability to rapidly and securely exchange information with all elements of the United States Intelligence Community. Many of DEA's offices overseas are accessible through the Department of State secure voice network. The expansion of this system to additional foreign and domestic DEA offices is now being evaluated.

-**FACSIMILE.** The DEA Facsimile System consists of 143 terminals, including all divisional and resident offices, laboratories, some airport details, Mexico City, Montreal, San Juan and Honolulu. Offices equipped with facsimile equipment can communicate with each other or with any other government agency or commercial firm that has compatible equipment (e.g., Xerox, Magnafax, Steward Warner, Graphio



Sciences). Upgrading of the system has included placing unattended machines in several larger offices and by replacing six minute per page with a faster capability. Fingerprint facsimile machines are operational in 13 major field locations. This system is used to send prints to the FBI and receive a prompt response. DEA is currently in the process of replacing much of its antiquated facsimile equipment with modern state-of-the-art devices.

**SECURE TELETYPEWRITER COMMUNICATIONS.** The DEA Secure Domestic Teletypewriter System presently consists of a Headquarters Telecommunications Center and 107 field offices, including Honolulu and San Juan. Additional terminals were activated in 1984. The immediate objective is for 130 operational locations. This is a private system within DEA; however, communications with other government agencies is available through the Headquarters Telecommunications Center. The DEA Teletypewriter System employs circuit switching as opposed to the previous data-phone operation. This allows any station in the network to send a message to all other stations in the network with only one transmission. KM-7 cryptographic hardware is being replaced by KM-8s in 1985 and 1986. Access to foreign offices is provided through the Department of Defense Automatic Digital Network and/or the State Department Diplomatic Telecommunications System, both of which are electrically connected to the Headquarters Telecommunications Center.

**COMMUNICATIONS SECURITY (COMSEC) ACCOUNTS.** DEA has one of the largest COMSEC accounts within the U.S. Government. COMSEC accounts are administered by the Headquarters Center Office of Record (COR), by the DEA COMSEC Officer and COMSEC Custodians at each of the DEA's 106 offices receiving cryptographic material. Custodians operate under policy promulgated by the National Security Agency for the positive and continuous recording and reporting of accountable COMSEC material from the time of receipt within DEA through destruction or final disposition. The total number of accounts will increase to 130 during 1985-1986. Regularly scheduled inspections of cryptographic facilities are the most effective means of ensuring that the required security standards are maintained at all times. The National Security Agency requires that all COMSEC accounts be inspected and audited at 18-month intervals. The purpose is to ensure that COMSEC material is used, stored, distributed, or accounted for, and that COMSEC equipment managed by DEA is employed and maintained in accordance with current standards.

**LAW ENFORCEMENT INFORMATION ACCESS SYSTEMS.** Headquarters, EPIC, and 49 field offices have access to the U.S. Customs TICS and/or their appropriate State Police computers. This not only provides an alternate access to state systems using DMTS, but also permits DEA's access to state criminal history files that is normally available to other users of the NCIO system.

**PAIDING SYSTEM.** DEA Headquarters utilizes the MEC Paying System for 45 senior officials and the duty agent. The Paying System is used by the AIP Program to alert DEA pilots in 23 field locations.

**Accomplishments and Workload:** The primary DEA enforcement system, Narcotics and Dangerous Drugs Information System (NADDIS) was redesigned to operate under a data base management system (DBMS). This was followed by the Enforcement Management Information System (EMIS), the Precursor System (PDS), the Central Asset Seizure Program (CASP), the Controlled Substances Act System (CSA) and other administrative support systems. These systems were maintained, on-line, during the year with an average uptime of 95 percent. The Human Resource Management Information System (HRMIS) has been planned to provide access to the information necessary to effectively manage personnel resources and produce statistics and reports required by law. A study is being conducted to determine the feasibility of redesigning the Automated Reports and Consolidated Orders System (ARCOS) and the Diversion Analysis and Detection System (DADS) to operate under a data

base management system. This study is consistent with DEA's goals to have all ADP systems operate under a common DMS. The El Paso Intelligence Center's (EPIC) capability to receive and process flight plans from PIA has been expanded to include both foreign and domestic flight plans data. The Text Analysis System (TEXAS), approved in 1984, is scheduled for installation in 1985 at the El Paso Intelligence Center to process all incoming and outgoing communication.

In addition lookouts conducted by the Watch have been automated by this system and retrospective search of all stored communications traffic provided. DEA has been successful in developing an Automatic Phone Numbering Recording System (APRS) and a Direct Automatic Phone Numbering Recording System (DAPRS). The APRS and DAPRS are used to augment the collection and analysis of dialed digit recorded data. The computer capability at this Addison Airwing in Texas was upgraded to provide more direct input from other field locations, improve the aircraft parts inventory control and improve the scheduling of aircraft maintenance.

DEA has been very successful in applying microcomputer technology to support many field operations. Microcomputers have been used to support Operation "Scorpion", Operation "Bushmaster", and numerous Title III investigations. At Headquarters, microprocessors have been installed in the Administrator's office, the Deputy Administrator's office, the Budget office and others. A microprocessor is also being used to support DEA's effort for A-123, Waste, Fraud and Abuse. DEA offices have been supplied word processing equipment as an interim solution to their clerical support problem pending the Office Automation implementation. Many offices did not have any word processing equipment and were experiencing significant increases in the case load rate of the office. The Office Automation project is well underway with the RFP released in 1984. The installation of the first equipment occurred in late 1984 with the pilot test being conducted in early 1985. With a successful pilot test, extension of the Office Automation to all DEA offices will start in 1985 with completion scheduled sometime in 1986. In the interim, DEA will be leasing over 600 wordprocessing units to fill the void until the office automation project is fully implemented.

All DEA Automated Telecommunication System (DMS) terminals were replaced on an interim basis with leased terminals that are IBM 3270 protocol compatible. The work stations of the Office Automation project will eventually replace these interim terminals. DMS has been extended to additional overseas operating offices providing them access to the same information that is available to domestic offices. There are now nineteen (19) DEA overseas offices with DMS capability. Data Encryption Standards (DES) devices were leased and have improved the security of all data communication networks. Thus far 386 National Security Agency (NSA) approved encryption devices have been ordered to secure the telecommunication network. The long range plan is for a single, fully encrypted and TEMPEST protected data communications and processing system.

Activity: Support Operations Subactivity: Records Management	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY Amount
Records management.....	91	87	\$3,824	91	87	\$3,869	91	87	\$3,869	...	...

Long-Range Goal: The Records Management program provides operational and administrative support to various DEA enforcement activities. These activities include: maintenance of the Narcotics and Dangerous Drugs Information System (NADDIS)—an automated index and data base; analysis and review of all records management systems; maintenance of an extensive collection of current and historical materials related to DEA enforcement operations; provision of responses to requests made pursuant to the FOI/PA and establishment and maintenance of a centralized Investigative Records System.

#### Major Objectives:

To continue to maintain and upgrade a centralized index of investigative data on narcotic traffickers in the Narcotics and Dangerous Drugs Information System (NADDIS) for retrieval by DEA enforcement and intelligence personnel.

To maintain the Enforcement Management Information System (EMIS II), a computerized index of data on confidential informants.

To maintain a central file of all drug investigations initiated by DEA field offices.

To maintain a central record of all DEA disclosures of information and provide a prompt records retrieval service for Headquarters Enforcement and Intelligence personnel.

To provide training of field and headquarters personnel in the NADDIS operations and indexing of narcotic trafficking information.

To monitor investigative reporting from field offices to ensure file integrity.

To provide responsive directives management services for Headquarters.

To upgrade file maintenance and disposal of investigative and administrative files in headquarters and field offices through application of records management technology.

To provide enhancement of consolidated DEA personnel related records in a centralized record keeping system.

To maintain a central file area for DEA special study reports.

To increase use of Headquarters Library DIAJDO on-line information retrieval system.

To maintain a minimal backlog in processing FOI/PA requests.

To maintain prompt responses within the statutory time limits for 90% of FOI/PA requests.

To continue to improve and update the FOI/PA processing system.

Base Program Description: The Records Management program provides for the necessary development and implementation of policy and procedures for DEA records management programs and information resource management systems.

The operational set-up of this office incorporates the following sections:

Records Management Section. The Records Management Section applies records and information management techniques and a knowledge of existing regulations and organizational functions to determine the efficiency and effectiveness of information management resource programs and systems reports control, forms analysis and design, files operations, periodical maintenance and disposition, correspondence and directives management, library and information operations, and consultant of procedural studies.

Investigative Records Unit. This unit maintains a central file of all drug investigations conducted by DEA field offices and of drug intelligence reports received from other agencies. It also maintains a record of all disclosures of information to individuals and agencies outside DOJ as required by the Privacy Act of 1974. Central records of all such disclosures are maintained, including microfiche, in order to provide an audit trail. This unit is responsible for providing the Headquarters staff with files on DEA criminal investigations and drug intelligence received from other agencies. WADIS, which is a computerized index of names and information extracted from investigative reports, is an extremely valuable, indispensable tool for conducting drug investigations. This unit is responsible for all data entered into WADIS and for ensuring the accuracy of the data entered. Maintains a central file on DEA confidential internal documents and a computerized index of Informants (BIS II).

Freedom of Information. The Freedom of Information Operations Unit prepares and provides responses to requests made pursuant to FOI/PA through use of specialists.

The Litigation Unit assists in defending DEA against FOI/PA lawsuits.

The library maintains an extensive collection of books, journals, and other file materials, both current and historical, to provide support for the DEA staff in planning and executing the strategies for control of those substances under Federal jurisdiction through enforcement and regulation while also providing support to Chief Counsel law library.

Accomplishments and Workload: The Records Management Section continues to conduct briefings and provide hands-on assistance on file maintenance and records disposal procedures with headquarters and field personnel. The results have been improved filing and record keeping, and a reduction in the volume of inactive records holdings in DEA offices. Establishment of a facility for the *Segar vs Bell* records has upgraded security, retrieval, and accountability of these files. Under the guidance of the Office of Records Management, the Consolidated Personnel Records are being converted to a color-coded retrieval system. The Records Management Section has formally

requested assignment of the Directives Management and the Consolidated Personnel File Activity for promoting the improved operating efficiency of these activities and cross-utilization of records management expertise. The library is expanding its microfilm collection by converting bound journals to microfilm thereby providing space for increased acquisitions of literature. Extensive use is being made of the DIALOO (200 data bases) on-line retrieval system in responding to inquiries for enforcement investigations and intelligence research.

Over the past ten years (through March 1984), DEA's MUDIS data base has grown to over 1,678,218 records. The Investigative Records Unit processes an average of 6,000 reports and 12,000 names on a weekly basis. This unit provides information to DEA/FOI special agents, intelligence analysts and other law enforcement personnel concerning people, firms, vessels and selected airfields which are identified through DEA's Investigative reporting system. It should be noted that MUDIS is currently being reformatting to operate under the COA-4204, Data Base Management System. An average of 1,500 disclosures of information are recorded by the section monthly.

During the period, December 1982 to December 1983, the Freedom of Information Section processed or otherwise closed 4,062 request files. The figure represents a 350% increase in file closings. During the period January 1, 1984 - June 30, 1984, the FOI Unit received 944 requests and processed 1,142 request files reducing the backlog by 198. This improvement is the direct result of proper staffing and improved processing procedures.

The FOI/Litigation Unit continues to assist other government agencies in the conduct of FOI/PA Litigation matters. As a result of its handling of FOI appeal and litigation matters, DEA has yet to be found in error in proceedings in the Federal Courts.

Program measures include the following:

Item	Estimates		
	1983	1984	1985
New Investigative Files Created.....	20,040	14,844	15,022
Investigative Reports Processed.....	261,013	302,939	306,574
MUDIS Records Created and Updated.....	525,514	549,650	657,000
Freedom of Information Actions.....	1,000	2,200	2,400
Disclosure Records Processed.....	16,654	18,138	18,000
Books and Journals Catalogued.....	650	650	700

Activity: Program Direction  
 Subactivity: Executive Direction  
 and Control

1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease			
Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	
Executive direction and control....	241	231	\$13,282	241	231	\$13,675	228	218	\$12,278	-13	-13	-\$1,397

Long-Range Goal: Develop and maintain management functions which effectively and efficiently develop and implement agency policy and enhance the decision making process.

Major Objectives:

To provide management direction and control through policy development, organizational and program planning, and improved management systems.

To monitor and evaluate all programs within DEA.

To develop legislative and administrative proposals as a means of improving the functioning of the criminal justice system.

To provide budget planning, formulation, execution and administrative capabilities and improve control of expenditures.

To provide automated systems for tracking of invoices and travel vouchers, imprest funds, vendor billings, and verification of invoices.

To provide information to specific interest groups and to the general public regarding DEA's mission and activities.

To reduce instances of integrity misconduct within DEA and provide and maintain a secure environment for DEA employees and property.

To provide Congress the information necessary to carry out legislative and oversight responsibilities.

To provide a full range of legal services to DEA management and agency personnel.

To promote internal control through the performance of financial audits.

To provide top management with expert advice on all matters that impact on the development of strategy, policy, operational performance, mission accomplishments, efficiency, integrity, and security of the agency.

To review management procedures and manpower utilization in the field and headquarters.

To institute and maintain an agencywide Physical Fitness Program.

Accomplishments and Workload: Public Affairs conducted activities to include drug abuse prevention and issued press releases designed to inform the law enforcement and Criminal Justice Community, as well as the general public, regarding national and international drug trafficking.

DEA developed and implemented a national drug abuse prevention program aimed at 5.5 million high school athletes in 20,000 high schools around the country. This program is conducted jointly with: the National High School Athletic Coaches Association with support from the International Association of Chiefs of Police, the National Football League, and the National Football Players' Association.

The Congressional Affairs staff responded to information requests from Members of Congress, initiated and tracked approved proposed legislation, coordinated the preparation and appearance for DEA management officials in 20 hearings in 1984, and served as a liaison with the Congress.

The Office of Chief Counsel prepared briefs, opinions, presentations and provided training in the following areas: regulatory matters, civil litigation, criminal matters, seizure and forfeiture of assets, personnel and EEO matters, management and procurement issues, and international matters. Attorneys represented DEA management in administrative hearings involving regulatory matters, personnel and EEO.

The Budget, Accounting, Management Analysis personnel services conducted training seminars for all field administrative personnel to train them in their new responsibilities as well as our new developments.

During 1984, the Budget Section, in addition to preparing an exhaustive enhancement request analysis procedure and preparation of three budget submissions also performed the following activities representative of the section workload.

- Prepared or coordinated the responses to nearly 475 budget request related questions from Congress, OMB, and DOJ.
- Supported DOJ operational and administrative management through nearly 17,000 DEAS queries and nearly 1,500 special reports and analysis.
- Responded to approximately 150 inquiries from Congress, OMB, DOJ, and DEA management on items/issues not directly related to a budget submission.

The Accounting Section handled more than one million documents during 1984. The actual 1984 workload as a result of the centralization of payments in 1982, increased over the 1982 volume by some 800%. New procedures using the backlog technique were put into effect to facilitate the deposit of registration fees during 1984 resulting in savings of \$80,000. Revised procedures to deposit forfeiture proceeds utilizing the Treasury Financial Communication System (TFCS) which accelerates deposits through electronic transfer were also implemented. Travel advances were reduced by nearly 50% during 1984.

During 1984, sixty (60) agents and non-agents were trained as Physical Fitness Coordinators. These coordinators are responsible for the screening, testing, and prescribing for all DEA personnel individualized health fitness programs. Individual health fitness programs are designed to provide long-term life style changes that will be reflected in an overall improvement in the health, morale, and productivity of DEA's workforce. Approximately 100 special agents have been screened and tested by the Physical Fitness Coordinators in order to develop a profile of the current level of fitness among the agent population.

The Board of Professional Conduct seeks to enhance the overall disciplinary process within DEA by aiming for fairness, consistency and timeliness in all of its proposals. Detailed analysis and discussion of Integrity Investigations insures consideration of mitigating and aggravating factors in determining the appropriateness of proposed disciplinary and adverse actions.

Board members will continue to lecture at BATF (Glynco) schools as well as Supervisory and Executive Management (Quantico) Training schools. On site lectures at Divisional Office Training sessions will also be increased. Due to its unique position in reviewing all accident and integrity/misconduct cases, the Board expects to increase computerization of statistics and to become more involved in conducting and reporting trend analysis.

During 1984, the Board handled a total of 493 cases. For 1985, as of the close of business January 17, 1985, the Board received a total of 162 investigations for review. Included in these investigations were 14 Integrity/misconduct matters and 148 accidents or incidents involving official government vehicles.

During 1984, the Office of Inspections conducted eight field division inspections, four foreign area office inspections, three follow-up inspections, three special inspections, and four Headquarters inspections. Sixteen audits were conducted concurrent with inspections and two special audits were done. These inspections and audits resulted in the issuance of 426 recommendations that, when fully implemented, will result in increased efficiency, economy and effectiveness of operations; assure management that compliance with applicable laws, regulations and rules is achieved, and assure adequacy of internal control over agency assets and expenditures. Examples are as follows:

- Identified a number of ineffective field and Headquarters supervisors, employees and programs and set in motion appropriate corrective actions.
- Identified significant management weaknesses in a major field division and caused implementation of replacement of management.
- Proved ineffective and inefficient program performance in two Headquarters support elements and caused appropriate corrections to be implemented.
- Identified significant program misdirection in a special operation unit and caused implementation of corrective actions.

The Office of Security Programs ensures the enhancement of all DEA-wide security programs and plans for the protection of personnel, property, facilities, and information including the promulgation of DSI/DEA policy, procedures and auditing for compliance. During 1984, it is estimated that the Office of Security Programs will process 1,300 background investigations and conduct 74 physical security surveys of domestic and foreign offices to ascertain compliance with DEA policy and procedures. This represents an increase of 42 security surveys over 1983.

The Office of Professional Responsibility (OPR) investigates and directs the investigation of integrity misconduct allegations directed at DEA employees. During 1984, many Integrity/misconduct investigations continued to be conducted on a collateral duty basis by operational field DEA agents under the direction of OPR inspectors. Standardized investigative and reporting procedures were established and issued to ensure uniformity in procedures and timely completion.



The Office of Planning and Evaluation consists of the Policy and Program Evaluation Section (PPE) and the Statistical Service Section (PSS), and the Physical Fitness Unit (PFU). PPE implements DEA's Physical Fitness Program, which became operational in 1984. Sixty physical fitness coordinators received training and began implementation of the program nationwide by conducting fitness assessments of all DEA special agents. PPE continued emphasis on the review, update, conversion, and documentation of all DEA statistical systems and the quarterly Statistical Report and a Monthly Activity Summary Report were implemented. DEA initiated a formal data requirements analysis for a Federal-wide Drug Statistical System. PSS is the lead for DEA in coordinating and working with several other DEA and DOJ entities in completing the requirements analysis for the development of the system. PPE completed nine program reviews, including DEA's Records Management Program, DEA's Mail Management and Operations, 24-hour Telephone Coverage of Domestic Field Offices, the Intelligence Program, Physical Fitness in DEA, the Firearms Study, and the Proposed Enhancement of EFTO. The results of these evaluations included recommendations of policy changes and system updates.

The Management Analysis Section continued in 1984 its initiative to upgrade the DEA Manual System. Two editions of the Agents Manual were published and most chapters of the Administrative and Personnel Manuals have been revised. The first comprehensive update of the Diversion Control Manual was completed. The OMB Circular A-123 (Nests, Fraud and Abuse) program manager completed requirements on the 1982-1983 cycle and coordinated the 1984-85 cycle of vulnerability assessments; established a computerized A-123 tracking system; developed training programs and instructed 150 management personnel. A-76 suballiances were provided to the Department. Analyses of Accounting Operations and field administrative functions and workload, using statistical techniques, assisted managers in program improvements.

Program Changes: A decrease of \$1,397,000, 13 positions and 13 workyears is in compliance with the Administration's decision to reduce management and administrative type functions throughout the government. The level of effort required in the critical areas of financial and manpower management, accounting, program integrity, evaluation and inspection, and legal services will be addressed through a realignment of resources from other base programs.

1985 Appropriation Activity: Program Direction Subactivity: Administrative Services	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	
Administrative services.....	143	134	143	134	143	134	134	125	134	101	-9
				\$8,484		\$8,929		\$8,101			-828

Long-Range Goal: Provide effective and efficient administrative support for all DEA elements in the areas of personnel, health and safety, employee development, equal employment opportunity, space and equipment, and general services.

Major Objectives:

- To replace badly deteriorated and obsolete furniture and office equipment to DEA field offices.
- To provide and manage adequate office space and special purpose facilities to meet DEA requirements.
- To provide an efficient and responsive contracting procurement program while increasing the level of participation of small, minority-owned business, and firms that hire the handicapped.
- To provide permanent change of station orders processing and necessary support services to affected employees.
- To provide recruitment and staffing programs responsive to the needs of the agency with full attention to the equal employment rights of all individuals.
- To improve personnel management programs including installation of an automated personnel system that will improve responsiveness, validate DEA personnel programs such as performance appraisals, selection, promotion, and career development.
- To provide an effective fleet of motor vehicles to meet DEA investigative needs and to provide a responsive transportation program.

Base Program Description: The Administrative Services program provides the necessary support services to enable the Drug Enforcement Administration to carry out its mission in the most effective and efficient manner possible.

All elements and all employees of the DEA are served by this program as follows:

- The primary responsibilities in the personnel area include planning, developing, administering and evaluating the DEA personnel program. Major objectives are accomplished through advertising vacancies consistent with the agency's merit promotion requirements; monitoring the agency's Federal Equal Opportunity Recruitment program; conducting job audits and establishing new positions; providing services to the Incentive Awards Committee; conducting onsite evaluations of the Personnel Management program and determining the extent to which field locations are receiving adequate personnel services; monitoring the agency's application of discipline, and obtaining grievance examiners where appropriate; administering an upward mobility program; providing advice and assistance to managers and employees.

concerning the performance appraisal system, and monitoring results of that system, providing administrative support required to administer the Merit Pay program; and administering a comprehensive program of developmental assignments to prepare qualified persons to assume executive and managerial roles.

- DEA employees are served by a comprehensive health program. Examining physicians or medical groups are available through contract at 90 sites throughout the United States for accomplishment of annual physical examinations. In addition, a daily basis is employees. Employees with acute medical or psychiatric problems are serviced by the Employee Assistance program staffed by DEA personnel at Headquarters and through contract personnel in field locations. In addition, DEA provides Health Unit support to employees at domestic sites through participation in the Federal Employee Occupational Health program.
- The EEO program report for minorities and women and Federal Equal Opportunity Recruitment Program Plan form the basis for coordination and definitive actions to meet the major objectives. Personnel policies, practices and procedures are reviewed to ensure there is no adverse impact on minorities or women. The EEO staff works closely with the DEA Personnel Office to plan and implement special employment programs and training programs for managers and supervisors on their Affirmative Action program responsibilities. An EEO specialist has specific responsibility for managing DEA's complaint system in order to process complaints of discrimination in a timely manner. The Selective Placement program for handicapped and disabled persons was transferred from the Office of Personnel to the EEO Staff in November 1984.
- The acquisition and utilization of space are centrally managed. Requests for office space and identified space problems are evaluated and appropriate action taken.
- Vehicle resources are controlled and maintained through a central vehicle management program to insure that existing and future vehicle resources are adequate and efficient, properly utilized and maintained, and replaced as necessary.
- Furniture and equipment requests are carefully reviewed for need prior to authorization for procurement.
- Adequate stocks of office supplies and forms are maintained. Post art, photographic and audio visual services are provided through in-house capabilities.

Accomplishments and Workload: A computerized Property Management System is currently being established which includes all domestic and foreign administrative furniture and equipment. When operational it will provide a centralized resource management system and will be beneficial to all levels of management.

The rehabilitation of furniture continued during 1984. Approximately 279 items were refurbished and repaired to extend the usage of these items with cost savings to the Government.

An Accounting Subsystem is being implemented in the transportation area. The installation of a Bunker-Ramo terminal will expedite the payment of airline tickets and will eliminate the current mass of paperwork.

Relocation packets are prepared and forwarded to all employees who are transferred. These packets include all PCS-related forms, guidelines, and information.

Many space actions were initiated during 1984 for both Headquarters and field offices. These include but are not limited to space acquisitions/reductions; reconfigurations; alterations; and relocations. Eleven (11) major alteration projects were completed and four (4) offices were relocated. Pending projects are being monitored and follow-ups are being made with the General Services Administration.

In 1984, DEA awarded 39% of its prime contracts totaling \$12,251,000 to small business concerns and approximately 24% of its formal contracts over 10,000 totaling \$3,222,000 to minority business concerns under the Small Business Administration 8(a) program.

DEA compliance are being processed in a timely fashion. A cooperative education program to recruit women and minorities has been established. On-going training programs for DEA women employees, EEO counselors, and EEO investigators have been established.

An EEO management information system capable of producing detailed data for multi-year affirmative action planning and status monitoring has been developed.

Personnel management has recently:

- Secured an additional excepted service appointing authority, (Schedule B "Crossovers") to allow noncompetitive appointment of candidates with special skills such as financial management, accounting, and auditing positions to facilitate the hiring of FBI, as well as employees of other agencies to better to assist in the President's Organized Crime Drug Enforcement Task Force (OCDETF) initiative.
- Streamlined special agent applicant processing systems to:
  - reduce initial backlog of special agents applications;
  - revise processes associated with basic qualifications determinations; and
  - improve communications with special agents applications via reduction in response time.
- Transferred functional responsibility for completion of mandated validation of DEA personnel programs via the hire of a project leader.

**Program Change:** This decrease of 488,000, 9 positions and 9 workyears is in compliance with the Administration's decision to reduce management and administrative type functions throughout the government. To meet the requirements of this program to provide timely and effective personnel services to our worldwide staff, to carry out the necessary day-to-day operations, to provide adequate support to our worldwide transportation control program, and adequately carry out daily facilities management functions, a realignment of resources from other base programs will be required.

Drug Enforcement AdministrationSalaries and expensesPriority Rankings

<u>Program</u>	<u>Base Program</u>	<u>Ranking</u>
Domestic Enforcement		1
Foreign Cooperative Investigations		2
Organized Crime Drug Enforcement		3
Diversion Control		4
Intelligence		5
ADP and Telecommunications		6
Technical Operations		7
DEA Laboratory Services		8
Records Management		9
Executive Direction		10
Administrative Services		11
DEA Training		12
Research and Engineering		13
Federal/State and Local Task Forces		14
State and Local Training		15
State and Local Laboratory Services		16

Drug Enforcement Administration  
Salaries and Expenses  
Detail of Personnel Positions by Category  
Fiscal Years 1984 - 1985

Category	1984 Authorized	1985		1986	
		Authorized	Proposed Supplemental	Program Decrease	Total
Attorney Series (900).....	15	15	3	...	18
General Legal Series (900-999).....	1	1	1	...	2
Legal Instruments Examining Series (963).....	12	12	...	...	12
General Investigating Series (1810).....	193	193	156	...	349
Criminal Investigating Series (1811).....	1,579	2,210	...	...	2,210
Criminal Justice Information Series (1820).....	11	11	...	...	11
Criminal Justice Information Group (1820-999).....	11	11	...	...	11
Intelligence Series (125-131).....	156	152	...	...	152
Intelligence Group (125-131).....	66	66	...	...	66
Personal Management Series (200-299).....	1,248	1,356	26	-22	1,330
General Administrative, Clerical, and Office Services Group (300-399).....	131	131	...	...	131
Biological Sciences Group (400-499).....	2	2	...	...	2
Chemistry and Physics Group (500-599).....	131	131	...	...	131
Medical, Dental, and Public Health Group (600-699).....	25	25	...	...	25
Engineering and Architectural Group (800-899).....	7	7	...	...	7
Information and Arts Group (1000-1099).....	13	13	...	...	13
Business and Industry Group (1100-1199).....	13	13	...	...	13
Physical Sciences Group (Other than Chemists) (1200-1299).....	13	13	...	...	13
Chemical Series (1300-1399).....	152	152	...	...	152
Library and Archives Group (1400-1499).....	2	2	...	...	2
Mathematics and Statistics Group (1500-1599).....	2	2	...	...	2
Equipment, Facilities, and Services Group (1600-1699).....	2	2	...	...	2
Education Group (1700-1799).....	24	24	...	...	24
Supply Group (2000-2099).....	5	5	...	...	5
Transportation Group (2100-2199).....	5	5	...	...	5
Total.....	8,083	8,830	156	-22	8,544
Washington.....	995	977	15	-22	970
U.S. Field.....	2,795	3,171	141	...	3,312
Foreign Field.....	293	282	...	...	282
Total.....	8,083	8,830	156	-22	8,544

## Drug Enforcement Administration

## Salaries and expenses

Summary of Adjustments to Base  
(Dollars in thousands)

	Perm. Pos.	Work- Years	Amount
1985 as enacted.....	4,430	4,282	\$329,988
Supplementals requested:			Amount
Pay increase supplemental requested:			\$5,609
Increased pay costs.....			-927
Absorption.....			
Net pay supplemental.....	156	39	4,682
Program supplementals requested.....	...	...	2,700
Proposed resolution.....	...	...	-876
1985 appropriation anticipated.....	4,586	4,321	336,494
Adjustments to base:			
Savings resulting from managements initiatives:			
Five percent pay reduction.....	...	...	-5,678
Uncontrollable increases:			
Annualization of 1985 pay increases.....	...	...	2,428
Annualization of additional positions approved in 1985.....	...	12	489
Annualization of 1985 program supplemental.....	...	117	7,743
Restoration of reduction for change in hourly rate.....	...	...	459
Within-grade increases.....	...	...	1,607
Health benefits costs.....	...	...	299
Federal Employees' Compensation Act (FECA).....	...	...	432
GPO printing costs.....	...	...	29
General Services Administration (GSA) recurring reimbursable services.....	...	...	221
Federal Telecommunications System (FTS).....	...	...	523
Department telecommunications.....	...	...	66
Automated legal research and litigation support services.....	...	...	1
General pricing level adjustment.....	...	...	3,763
Foreign allowances.....	...	...	91
Distributed Administrative Support (DAS).....	...	...	416
Total, uncontrollable increases.....	...	129	19,057
Decreases:			
Nonrecurring items for 79 new positions authorized in 1985.....	...	...	-731
- Nonrecurring costs for renovation or moving (RCS) (-\$210,000)			
- Nonrecurring costs for motor vehicles (-\$294,000)			
- Nonrecurring costs for training (-\$77,000)			
Rate decrease for full-field investigations positions (-\$150,000)			
Standard Level User Charge (SLUC) redistribution.....	...	...	-127
Unemployment compensation redistribution.....	...	...	-1,041
Total, decreases.....	...	...	-1,977
Total adjustments to base.....	...	129	11,402
1986 Base.....	4,586	4,450	347,896

Drug Enforcement Administration

Salaries and expenses

Justification of Adjustments to Base  
(dollars in thousands)

	<u>Permanent Positions</u>	<u>Workyears</u>	<u>Amount</u>
--	----------------------------	------------------	---------------

Savings resulting from management initiatives:

- |                                    |     |     |         |
|------------------------------------|-----|-----|---------|
| 1. Five percent pay reduction..... | ... | ... | -45,678 |
|------------------------------------|-----|-----|---------|
- Savings of \$5,678,000 will be realized as a result of the proposed 5 percent pay reduction in salaries for civilian federal employees.

Uncontrollable increases:

- |  |     |     |       |
|--|-----|-----|-------|
| 1. Annualization of 1985 pay increase..... | ... | ... | 2,428 |
|--|-----|-----|-------|
- This provides for the annualization of the January 6, 1985 pay raise contained in Executive Order 12496, dated December 28, 1984. There are 261 compensable days in 1985 and 70 paid days (October 1, 1984 through January 5, 1985) that were not included in the pay raise amount of \$4,682,000.

- |  |     |     |     |
|--|-----|-----|-----|
| 2. Restoration of reduction for change in hourly rate..... | ... | ... | 459 |
|--|-----|-----|-----|
- Section 310 (b) (1) of the Omnibus Reconciliation Act of 1982 required that for 1984 and 1985 pay be computed on the basis of 2,087 workhours. These funds were withdrawn from the 1984 budget. For 1986 the basis for computing pay reverts to 2,080 workhours and restoration of the \$459,000 reduced in 1984 is required to fund the change in the hourly rate.

528



Permanent Positions	Workyears	Amount
...	12	\$489

3. Annualization of additional positions approved in 1985.....  
This provides for the annualization of 79 additional positions approved in 1985.

	Approved 1985 Increases	Total Annualization
Annual salary rate of 79 positions.....	\$2,159,000	...
Other personnel compensation.....	142,000	\$35,000
Less lapse (25 percent).....	-408,000	408,000
Net compensation.....	1,893,000	143,000
Associated employee benefits.....	186,000	46,000
Total costs subject to annualization.....	2,079,000	489,000

4. Annualization of 1985 program supplemental.....  
This provides for the 1986 annualized costs of the supplemental request necessitated by the Comprehensive Crime Control Act of 1985.

	Approved 1985 Increases	Total Annualization
Annual salary rate of 156 positions.....	\$5,150,000	...
Other personnel compensation.....	180,000	\$100,000
Less lapse (25 percent).....	-4,110,000	4,110,000
Net compensation.....	1,220,000	4,210,000
Associated employee benefits.....	130,000	600,000
Other related employee costs.....	1,450,000	2,933,000
Total costs subject to annualization.....	2,700,000	7,743,000

5. Within-grade increases.....  
This request provides for an increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel Compensation \$1,448,000 and Benefits \$159,000 = \$1,607,000).

...	...	1,607
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	Permanent Positions	Workyears	Amount
6. Health benefits costs.....	...	...	\$299
<p>The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective the first pay period after January 1, 1984, the Departments actual contribution of health insurance increased approximately 10 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$299,000 provides funds for increased costs from pay period No. 2 (\$147,476) to pay period No. 3 (\$158,959) projected for 26 pay periods.</p>			
7. Federal Employees' Compensation Act (FSCA) - Workers Compensation.....	...	...	\$32
<p>This increase reflects the billing provided by the Department of Labor for the actual costs in 1984 of employees' accident compensation. The 1986 amount will be \$3,372,000 or \$432,000 over the 1985 base.</p>			
8. GPO printing costs.....	...	...	29
<p>The Government Printing Office (GPO) is currently projecting a five percent increase over the 1985 cost of \$580,000. An additional \$29,000 will be required in 1986.</p>			
9. GSA recurring reimbursable services.....	...	...	221
<p>Reimbursable payments are made to GSA for heating, ventilation and air conditioning provided in excess of normal working hours and for guard service. GSA has estimated a five percent increase over 1985 charges.</p>			
10. Federal Telecommunications System (FTS).....	...	...	523
<p>The FTS increase reflects the advance billing providing to the Department of Justice by the General Services Administration. In 1985, the uncontrollable increase will be \$523,000 over the 1984 base of \$3,249,000.</p>			

530

	Permanent Positions	Workyears	Amount
11. Department telecommunications.....	...	...	\$66
Expenses for equipment, installation and commercial tools (to include message units and directory assistance) have increased dramatically since April 1984. An increase was not requested for 1985 due to the uncertainties surrounding industry restructuring and deregulation. Annualization of the current level of billing indicates that 1985 expenses will be approximately 18 percent higher than 1984 estimated expenses, requiring an uncontrollable increase of \$66,000.			
12. Automated legal research and litigation support services.....	...	...	1
Centralized JURIS, litigation support, and case management services are available for all departmental organizations through the Departmental Working Capital Fund (WCF). The WCF is projecting an increase of 5 percent over the 1984 costs of \$26,000.			
13. General pricing level adjustment.....	...	...	3,763
This request applies OMB pricing guidance as of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1984 estimates.			
14. Foreign allowances.....	...	...	581
Allowances for Government employees in foreign areas are determined by the Department of State. The State Department anticipates a 11.4 percent increase in 1985. The requested increase of \$581,000 provides 11.4 percent more than the \$5,012,000 budgeted for 1984.			
15. Distributed Administrative Support (DAS).....	...	...	416
Under the Foreign Affairs Administrative Support (FAAS) agreement an annual charge is made by the Department of State (DOS) for administrative support items, the amount of this charge is determined by the DOS. The DOS advises that a 15 percent increase in foreign operations is anticipated. The increase of \$416,000 is based on a 1984 base availability of \$2,773,000.			
Total, uncontrollable increases.....	...	...	19,057

Decreases (automatic non-policy):

Non Policy Decreases:

1. Nonrecurring items for 79 new positions authorized in 1985.....
  - Nonrecurring costs for renovation or moving (RCB)..... (-210,000)
  - Nonrecurring costs for motor vehicles..... (-291,000)
  - Nonrecurring costs for training..... (-77,000)
  - Nonrecurring costs for full-field investigations positions..... (-150,000)
2. Rate decrease for full-field investigations.....
3. Standard Level User Charges (SLUC) redistribution.....
4. Unemployment Compensation redistribution.....

Total Decreases:

Total adjustments to base.....

1986 current level.....

Permanent Positions	Workyears	Amount
...	...	-4731
...	...	-127
...	...	-1,041
...	...	-78
...	...	-1,977
...	129	11,402
4,564	4,428	347,696

Drug Enforcement AdministrationSalaries and expensesFinancial Analysis - Program Changes  
(Dollars in thousands)

Item	Executive Direction and Control		Administrative Services		Total	
	Positions	Amount	Positions	Amount	Positions	Amount
<u>Grade</u>						
GS-12.....	-13	-4478	-9	-4332	-22	-4810
Total positions and annual rate.....	-13	-478	-9	-332	-22	-810
Other personnel compensation.....	...	...	...	...	...	...
Lapses.....	...	...	...	...	...	...
Permanent workyears and personnel compensation.....	-13	-478	-9	-332	-22	-810
Personnel benefits.....	...	-62	...	-43	...	-105
Standard Level User Charges.....	...	-60	...	-40	...	-100
Communications, utilities, and other rent.....	...	-236	...	-164	...	-400
Other services.....	...	-561	...	-249	...	-810
Total workyears and obligations, 1986.....	-13	-1,397	-9	-828	-22	-2,225

Drug Enforcement Administration

Salaries and expenses

Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Grades and salary ranges	1995 Estimate		1996 Request		Increase/Decrease	
	Positions & Workyears	Amount	Positions & Workyears	Amount	Positions & Workyears	Amount
Executive Level III, \$73,600.....	1		1		...	
Executive Level V, \$68,700.....	1		1		...	
GS-18, \$68,700.....	3		3		...	
GS-17, \$68,700.....	12		12		...	
GS-16, \$61,296-68,700.....	36		36		...	
GS/GM-15, \$52,262-67,940.....	97		97		...	
GS/GM-14, \$44,430-57,759.....	431		431		...	
GS/GM-13, \$37,599-48,876.....	983		983		...	
GS-12, \$31,619-41,105.....	1,586		1,584		-22	
GS-11, \$26,381-34,292.....	92		92		...	
GS-10, \$24,011-31,211.....	3		3		...	
GS-9, \$21,804-28,347.....	106		106		...	
GS-8, \$19,740-25,662.....	55		55		...	
GS-7, \$17,824-23,170.....	239		239		...	
GS-6, \$16,040-20,855.....	345		345		...	
GS-5, \$14,390-18,710.....	491		491		...	
GS-4, \$12,862-16,723.....	84		84		...	
GS-3, \$11,458-14,698.....	3		3		...	
Ungraded positions.....	18		18		...	
Total, appropriated positions.....	4,586	\$156,012	4,564	\$155,097	-22	-915
Pay above stated annual rates.....	...		...		...	
Lapses.....	-265	575	-136	624	...	49
Net savings due to lower pay scales for part of the year.....	...	-7,207	...	-3,561	...	3,646
Net full-time permanent workyears.....	4,321	149,380	4,428	152,160	107	2,780
Average GS/GM Salary.....		\$34,019		\$33,983		
Average GS/GM Grade.....		11.06		10.98		

Drug Enforcement Administration

Salaries and expenses

Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Object Class	1985 Estimate		1986 Estimate		Increase/Decrease	
	Workyears	Amount	Workyears	Amount	Workyears	Amount
11.1 Permanent positions.....	4,266	\$149,380	4,373	\$152,160	107	\$2,780
11.3 Positions other than permanent:						
Part-time permanent.....	10	130	10	135	...	5
Temporary employment.....	25	380	25	400	...	20
Other part-time/intermittent employment.....	20	278	20	278	...	...
11.5 Other personnel compensation						
Overtime.....	39	850	39	850	...	...
Administratively uncontrollable overtime.....	531	12,838	551	12,883	20	45
Other compensation.....	...	1,160	...	1,160	...	...
Total, workyears and personnel compensation.....	4,861	165,016	5,018	167,866	157	2,850
12.0 Personnel benefits.....						
21.0 Travel and transportation of persons.....		20,128		30,637		1,509
22.0 Transportation of things.....		12,084		13,089		1,015
23.1 Standard level user charges.....		2,782		2,782		-20
23.2 Communications, utilities, and other rent.....		23,561		23,075		-486
24.0 Printing and reproduction.....		20,218		21,558		1,340
25.0 Other services.....		1,139		1,325		186
26.0 Supplies and materials.....		54,535		55,239		704
31.0 Equipment.....		9,111		9,611		500
42.0 Insurance claims and indemnities.....		19,038		20,374		1,336
Total obligations.....		125		125		...
Unobligated balance, available, start of year.....		336,737		345,671		8,934
Total requirements.....		-243		345,671		...
Relation of obligations to outlays:						
Obligations incurred, net.....		336,737		345,671		...
Obligated balance, start-of-year.....		35,451		42,441		7,000
Obligated balance, end-of-year.....		-12,441		-49,642		-37,201
Outlays.....		324,296		338,470		14,174

## GENERAL STATEMENT

Mr. SMITH. We have with us today John C. Lawn, the Acting Administrator of DEA. Mr. Lawn, do you have a statement?

Mr. LAWN. Yes, I do, Mr. Chairman. I do have a formal statement for the record, and a brief reading statement.

Mr. SMITH. All right.

Mr. LAWN. Mr. Chairman and Members of the Subcommittee, I am pleased to come before you to discuss the budget request of the Drug Enforcement Administration. During my tenure as Deputy Administrator of DEA, I am aware that this Committee has been supportive of our efforts and I want to thank you.

There have been some encouraging signs this year which demonstrate continued progress in our drug enforcement efforts:

—Serious crime in our nation has decreased over the past two and one-half years. We can see that the Federal drug strategy is having a definite impact.

—The number of heroin addicts has stabilized at approximately one-half million, and the abuse of dangerous drugs decreased by 12 percent.

According to data released by the National Institute on Drug Abuse (NIDA), in fiscal year 1984 young people in the United States continued to record what has become a four-year decline in reported abuse of such drugs as marijuana, amphetamines, and barbiturates. DEA recorded noteworthy increases in arrests, convictions, drug seizures and cannabis eradication during fiscal year 1984.

One point should be emphasized: Continuing the momentum of our enforcement efforts will depend upon a continuing willingness to commit the necessary resources and cooperative efforts. Much more needs to be done. I must point out enforcement alone is not the answer. It is only one of the five elements of the federal strategy, including prevention, enforcement, treatment, international cooperation, and research.

## BUDGET REQUEST

DEA's budget for fiscal year 1986 is for a total of \$345,671,000 and 4,564 permanent positions, of which 2,210 are agents. This represents a net increase of 134 positions and \$15,683,000 above the 1985 enacted level. Included in the proposed net increase is the full year cost for a 1985 supplemental request for 156 positions to implement the administrative revocation provisions of the 1984 Comprehensive Crime Control Act, other management initiatives and uncontrollable changes, and 22 fewer administrative positions.

## DEA/FBI CONCURRENT JURISDICTION

The effectiveness of drug law enforcement has been improved through closer working relationships with law enforcement agencies at the Federal, State and local levels.

The number of joint DEA/FBI investigations has steadily increased since concurrent jurisdiction was implemented in 1981. There were 789 at the end of fiscal year 1984—a 233 percent increase over fiscal year 1982. Similarly in fiscal year 1984, there was



a 280 percent overall increase in the use of drug-related Title III investigations and a 337 percent increase in the number conducted jointly between 1982 and 1984.

FBI participation in drug enforcement has increased Federal drug investigative resources by approximately 50 percent. Its expertise in money laundering, public corruption cases, assistance with fugitive apprehension, and technology has augmented the success of DEA.

#### DEA ACCOMPLISHMENTS

I believe DEA has been effective in pursuit of the National Strategy to Prevent Drug Abuse and Drug Trafficking, as indicated by the following:

In the Domestic Operations Programs:

—The DEA rate of arrests has gone from less than 1,000 per month in fiscal year 1980 to nearly 1,100 per month in fiscal year 1984. Arrests in those cases targeted at the top echelon or Class I cases, have increased approximately 40 percent. Convictions are up from about 400 per month in fiscal year 1980 to more than 900 per month in fiscal year 1984.

—During this same time period, increases in drugs removed from the traffic were also significant. Cocaine removals were up 380 percent and totalled 11.7 metric tons in fiscal year 1984. Marijuana seizures increased 270 percent and heroin seized increased 80 percent.

—During fiscal year 1984, DEA investigations also accounted for the seizure of 190 clandestine laboratories, including 120 methamphetamine, 18 PCP and 17 cocaine laboratories.

The formation of 13 Organized Crime Drug Enforcement Task Forces has made a major contribution to the national Drug Enforcement effort. These task forces use resources from nine Federal agencies and state and local officers from over 100 law enforcement agencies. From fiscal year 1983, when the program was implemented, to the end of fiscal year 1984, DEA had participated in 747 cases initiated; 342 of which had resulted in indictments.

The state and local task force program unites DEA special agents and state and local police officers into drug enforcement units in selected geographic areas. This program resulted in 2,476 arrests during fiscal year 1984. I would like to add that in relation to the state and local task forces, the conviction rate for those task forces is 96 percent.

The DEA Domestic Cannabis Eradication/Suppression program was established to ensure a coordinated effort between Federal, state and local agencies involved in the eradication of cannabis cultivated in the United States. The program has expanded from seven states in 1981 to 48 states in 1984, and in 1985 all 50 states will be involved in this domestic eradication program, with the agreement recently enacted with the State of New Jersey.

In calendar year 1984, state and local eradication teams were responsible for the arrest of 4,941 individuals, the seizure of over 1,400 weapons and the destruction of almost 13 million plants—of which approximately 27 percent were the highly potent, highly cul-

tivated sinsemilla variety. Also 650 greenhouses used for growing cannabis were raided.

DEA operates the El Paso Intelligence Center (EPIC) which is a repository for tactical intelligence leads used to track the domestic and international movement of drugs, aliens, and weapons. Nine Federal agencies participate in EPIC. Intelligence exchange agreements were completed with the last of the 50 state police organizations in the fall of 1984.

In fiscal year 1984, EPIC processed 282,000 intelligence inquiries. EPIC data assisted in the seizures of 85 aircraft, 176 vessels, 36,000 pounds of cocaine, and 2.5 million pounds of marijuana.

#### INTERNATIONAL OPERATIONS

Through the Foreign Cooperative Investigations Program, DEA works closely with the Department of State to control international drug trafficking. DEA carries out international activity by providing technical advice, investigative cooperation, intelligence exchange, diplomatic initiative assistance and the training for foreign officials sent to the United States as well as the providing of instructors to teach in the host countries. DEA provides a world-wide link in drug intelligence. There are currently 200 agents stationed in 60 foreign cities in 41 countries throughout the world. Internationally, it has become difficult to keep track of the so-called "record seizures," for they are being made on a regular basis, and each one is much larger than the last.

In 1984, there were notable successes, supported by DEA, in diplomatic initiatives to control drugs:

--Colombia implemented eradication programs for both marijuana and cocaine, and began extraditing Colombian drug traffickers wanted for prosecution in the United States.

--A cooperative regional communications and intelligence center for Latin America is to be established.

One of the most promising international drug control programs is Operation Chem Con. It is an effort to monitor and control the distribution of chemicals needed to manufacture illicit drugs from the raw plant material. Legitimate chemical manufacturers and law enforcement personnel from many nations including the Governments of Panama, Colombia, Brazil and others, have played major roles in this program. In Colombia alone more than 14,000 barrels of ethyl ether has been seized by the Colombian Government, which is a necessary chemical in the processing of cocaine base and paste to cocaine hydrochloride.

Given these successes, DEA is now applying these techniques to control production of other illicit drugs. For example, we are now monitoring acetic anhydride for heroin and the precursor chemicals needed to manufacture methamphetamine and PCP.

All nations are profoundly concerned by the increasing willingness of narcotics traffickers to use terrorist-type violence. The senseless assassination of Justice Minister Lawa in Bogota in 1984 sparked a major expansion of Colombia's anti-narcotics program. The recent wave of killing of law enforcement officers in Mexico, including DEA Special Agent Enrique Camarena y Salazar has

strengthened the resolve of narcotics control agencies on both sides of the border.

Agent Camarena's tragic death was a great loss to this agency and to his comrades. It was also a reminder to us that we are proving effective in trying to subvert drug trafficking, because the drug traffickers are trying to engender fear and alarm by terrorist acts. These terrorist acts will not affect the role of the Drug Enforcement Agency, because we will not be intimidated.

#### **DIVERSION CONTROL**

DEA also enforces provisions of the Controlled Substances Act which pertain to the manufacture and distribution of controlled substances for medical and research purposes. The diversion control program is responsible for the detection and prevention of diversion of drugs from legitimate channels.

Through diplomatic and operational efforts, DEA has effectively curtailed the diversion of foreign-source methaqualone into the United States and has stimulated many initiatives and control measures taken by foreign governments, INTERPOL and the United Nations to reduce the international diversion of legitimate drugs and essential chemicals.

During fiscal year 1984, DEA conducted 226 criminal investigations and 667 periodic, unannounced investigations of DEA registrants resulting in 165 arrests. Additionally, as a result of the 667 periodic, unannounced investigations conducted, corrective action was taken against 258 firms. A substantial increase in diversion investigator positions, which is being requested to implement the new administrative revocation provisions of the Comprehensive Crime Control Act of 1984, could reduce the level of diverted drugs by an estimated additional 100 million dosage units per year.

#### **PREVENTION**

Preventing drug abuse before it starts is the long-range solution to resolving the drug problem. DEA is reaching out to young people through a joint drug prevention venture with athletes in The Sports Drug Awareness Program. The FBI, the National Football League, along with its Players Association, the International Association of Chiefs of Police and the Office of Juvenile Justice and Delinquency Prevention all are supporting this program through the National Association of High School Athletic Coaches.

As a former coach, I am particularly sensitive to the need for such an effort. I believe the impact we can expect to make by reaching the younger generations of students through a vehicle to which they can better relate is great.

#### **COMPREHENSIVE CRIME CONTROL ACT**

I would like to conclude with a comment concerning the Comprehensive Crime Control Act of 1984.

For DEA, the impact will be great: increased trafficking penalties and bail reform; establishing administrative registrant revocation in diversion control; emergency drug scheduling, enhanced asset seizure and forfeiture authority and uniform sentencing.

On the whole, we welcome this statute as an important signal to criminals and to the international community, that our government means business in drug crime control.

This concludes my statement, Mr. Chairman. I shall be pleased to answer any questions you or other Members of the Subcommittee might have.

[The prepared statement of Mr. Lawn follows:]

DEPARTMENT OF JUSTICE  
STATEMENT OF ACTING ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION  
JOHN C. LANN  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
THE DEPARTMENTS OF COMMERCE, JUSTICE AND STATE, THE  
JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I am pleased to come before you to discuss the budget request of the Drug Enforcement Administration. During my tenure as Deputy Administrator of DEA, I am aware that this committee has been supportive of our efforts and I want to thank you.

I am pleased to report that there have been some encouraging signs this year which demonstrate continued progress in our drug enforcement efforts:

- Serious crime in our nation has decreased over the past two and one-half years. Given what is known about the relationship between drugs and crime, we can see that the Federal drug strategy, formulated at the beginning of this Administration, is having a definite impact. I believe our efforts are making a difference in the nation's well-being.
- Abuse of several of the more harmful drugs has stabilized according to the latest available data. The number of heroin addicts has stabilized at approximately one-half million, and the abuse of dangerous drugs decreased by 12 percent.

According to data released by the National Institute on Drug Abuse (NIDA) in FY 1984, young people in the United States continued to record what has become a four-year decline in reported abuse of such drugs as marijuana, amphetamines, and barbiturates. For example, the number of high school seniors using marijuana on a daily basis is estimated to be 5.5 percent. This is the lowest level of reported use since the government began keeping such statistics in 1975.

DEA recorded noteworthy increases in arrests, convictions, drug seizures and Cannabis Eradication during FY 1984. These solid accomplishments point to increased enforcement effectiveness.

One point should be emphasized: Continuing the momentum of our enforcement efforts will depend upon a continuing willingness to commit the necessary resources and cooperative efforts. Much more needs to be done. I must point out enforcement alone is not the answer. It is only one of the five elements of the federal strategy.

#### BUDGET REQUEST

DEA's budget request for FY 1986 is for a total of \$345,671,000 and 4,564 permanent positions, of which 2,210 are agents. This represents a net increase of 134 positions and \$15,683,000 above the 1985 enacted level. Included in the proposed net increase is the full year cost for a 1985 supplemental request for 156 positions to implement the administrative

revocation provisions of the 1984 Comprehensive Crime Control Act, other management initiatives and uncontrollable changes and 22 fewer administrative positions.

AGENCY MISSION AND ROLE

DEA is the lead law enforcement agency responsible for investigating drug trafficking within the United States and the sole United States agency authorized to conduct foreign cooperative investigations.

Additionally, DEA has the responsibility to regulate and monitor the manufacture and distribution of controlled substances. DEA also is responsible for providing central leadership, management and coordination for intelligence relating to the suppression of illicit drugs.

The effectiveness of drug law enforcement has been improved through closer working relationships with law enforcement agencies at the Federal, State and local levels.

DEA/FBI CONCURRENT JURISDICTION

One of the many important drug law enforcement initiatives undertaken by this Administration was granting to the FBI concurrent jurisdiction with DEA to investigate violations of federal Drug Laws.

DEA/FBI coordination of targets and investigations has become routine in both the field and headquarters. The number of joint DEA/FBI investigations has steadily increased since concurrent jurisdiction was implemented in 1981. There were 789 at the end of the FY 1984--A 233 percent increase over FY 1982.

391 narcotic-related Title III investigations, of which 179 were conducted jointly by DEA and the FBI. This represents a 280 percent overall increase in the use of drug related Title III investigations and a 337 percent increase in the number conducted jointly between 1982 and 1984.

FBI participation in Drug Enforcement has increased Federal drug investigative resources by approximately 50 percent. The FBI is developing and substantiating connections among drug trafficking groups and both traditional and non-traditional organized crime organizations. Its expertise in money laundering, public corruption cases, assistance with fugitive apprehension, and technology has augmented the success of DEA.

I believe DEA has been effective in pursuit of the National Strategy to Prevent Drug Abuse and Drug Trafficking, as indicated by the following:

#### DOMESTIC OPERATIONS

In the Domestic Operations Programs, the major thrust is the reduction of illicit narcotics and dangerous drugs in the domestic market place through



enhanced coordination and intelligence sharing; and effective cooperation among Federal/State and Local authorities, the maintenance of continuous investigative pressure on traffickers has lead to increased arrests, prosecutions, and convictions of major violators, and forfeiture of their financial assets.

- The DEA rate of arrests has gone from less than 1,000 per month in FY 1980 to nearly 1,100 per month in FY 1984. Arrests in those cases targeted at the top echelon or Class I cases, have increased approximately 40 percent. Convictions are up from about 400 per month in FY 1980 to more than 900 per month in FY 1984.
- During this same time period, increases in drugs removed from the traffic were also significant. Cocaine removals were up 380 percent and totalled 11.7 metric tons in FY 1984. Marijuana seizures increased 270 percent and heroin seized increased 80 percent.
- During FY 1984, DEA investigations also accounted for the seizure of 190 clandestine laboratories, including 120 methamphetamine, 18 PCP and 17 cocaine laboratories.

#### ORGANIZED CRIME DRUG ENFORCEMENT OPERATIONS

The formation of 13 Organized Crime Drug Enforcement Task Forces to target the highest level of organized crime and drug trafficking, has made a major

contribution to the national Drug Enforcement effort. These task forces utilize resources from nine Federal agencies. In addition, maximum cooperation is promoted among State and Local officers from over 100 law enforcement agencies who participate in 40 percent of Task Force cases. The success of the program has been impressive. From FY 1983, when the program was implemented, to the end of FY 1984, DEA had participated in 747 cases initiated; 342 of which had resulted in indictments.

#### OTHER COOPERATIVE DOMESTIC OPERATIONS

##### State and Local Task Forces

To complement the Federal Drug Enforcement effort, the DEA provides leadership in gaining the effective participation of state and Local resources toward the drug reduction efforts, with a minimal investment of federal resources; freeing resources to target higher level traffickers. The State and Local Task Force program unites DEA special agents and State and local police officers into drug enforcement units in selected geographic areas. These task forces facilitate intelligence sharing among the participating agencies and provide the ability to target mid-level traffickers who prove difficult to investigate by only a single agency. By the end of 1984, 23 State and Local Task Forces were operational. This program resulted in 2,476 arrests during FY 1984. This program provides a good return on the federal government's investment.

Cannabis Eradication Program

The DEA Domestic Cannabis Eradication/Suppression program was established to ensure a coordinated effort between Federal, State, and local agencies involved in the eradication of cannabis cultivated in the United States. DEA's role, within current resource levels, is to encourage State and local eradication efforts and to contribute funding, training, equipment, investigative, and aircraft resources. The program has expanded from seven states in 1981 to 48 states in 1984.

In calendar year 1984, state and local eradication teams were responsible for the arrest of 4,941 individuals, the seizure of over 1,400 weapons and the destruction of almost 13 million plants (of which approximately 27 percent were the highly-potent, highly cultivated sinsemilla variety). Also, 650 green houses used for growing cannabis were raided. This type of expensive cultivation shows that our efforts are becoming more effective as the growers attempt increasingly to conceal their cannabis crop.

EPIC

DEA operates the El Paso Intelligence Center (EPIC) which is a repository for Tactical Intelligence leads used to track the Domestic and international movement of drugs, aliens and weapons. Nine federal agencies participate in EPIC. intelligence exchange agreements were completed with the last of the 50 state police organizations in the fall of 1984.

In FY 1984, EPIC processed 282,000 intelligence inquiries. EPIC data assisted in the seizures of 85 aircraft, 176 vessels, 36,000 pounds of cocaine, and 2.5 million pounds of marijuana. EPIC's unique, interagency cooperative approach is also being used as a prototype for the development of similar centers on a regional/statewide basis in this country and several foreign nations. Examples include the California narcotics information network and intelligence centers in Venezuela and the Federal Republic of Germany.

#### INTERNATIONAL OPERATIONS

Through its Foreign Cooperative Investigations Program, DEA works closely with the Department of State to control international drug trafficking. DEA carries out international activity by providing technical advice, investigative cooperation, intelligence exchange, diplomatic initiative assistance and the training for foreign officials sent to the United States as well as the providing of instructors to teach in the host countries. DEA provides a world-wide link in drug intelligence. There are currently 200 agents stationed in 60 foreign cities in 41 countries throughout the world. Internationally, it has become difficult to keep track of the so called "record seizures," for they are being made on a regular basis, and each one is much larger than the last:

- Through a DEA monitored enforcement program, Mexico seized 10,000 tons of Cannabis plants, which would have yielded 2,000 net tons of marijuana, which were growing in non-traditional areas.

The raid also freed 7,000 migrant workers held by drug traffickers and seized a heroin processing laboratory.

- Based on DEA information, the Colombian Government seized seven cocaine laboratory complexes and 10 tons of cocaine. Ambassador Lewis Tambs described the operation as the "largest drug raid ever in the world."

In 1984, there were notable successes, supported by DEA, in diplomatic initiatives to control drugs.

- Colombia implemented eradication programs for both marijuana and cocaine, and began extraditing Colombian drug traffickers wanted for prosecution in the United States.
- As a result of a conference co-sponsored by DEA, eleven Latin American countries, Canada and the United States determined that a cooperative regional communications and intelligence center for Latin America would be established.

#### OPERATION CHEM CON

One of the most promising international drug control programs is Operation Chem Con. It is an effort to monitor and control the distribution of chemicals needed to manufacture illicit drugs from the raw plant material. In order for this program to be successful DEA must foster the cooperation of legitimate chemical manufacturers and law enforcement personnel from

many nations. The Governments of Panama, Colombia, Brazil and others have played major roles. For example, a 55 gallon drum of ether, which retails for about \$180 in the U. S. now costs a Colombian cocaine manufacturer upwards of \$10,000. By making ether prohibitively expensive and unobtainable, we can restrict cocaine production, and hopefully its availability.

Given these successes, DEA is now applying these techniques to control production of other illicit drugs. For example, we are now monitoring acetic anhydride for heroin and the precursor chemicals needed to manufacture methamphetamine and PCP.

#### VIOLENCE AND TERRORISM

All nations are profoundly concerned by the increasing willingness of narcotics traffickers to use terrorist-type violence. The senseless assassination of Justice Minister Lara in Bogota in 1984 sparked a major expansion of Colombia's anti-narcotics program. The recent wave of killing of law enforcement officers in Mexico, including DEA Special Agent Enrique Camarena Salazar has strengthened the resolve of narcotics control agencies on both sides of the border. Agent Camarena's tragic death was a great loss to this agency and to his comrades.

#### DIVERSION CONTROL

DEA also enforces provisions of the Controlled Substances Act which pertain to the manufacture and distribution of controlled substances for medical and research purposes.

The diversion control program is responsible for the detection and prevention of diversion of drugs from legitimate channels.

Four types of investigations are conducted under this program:

- periodic unannounced investigations of drug manufacturers and wholesalers;
- criminal investigations of targeted registrants who are high-level violators;
- pre-registrant investigations which are conducted prior to the approval of DEA registration applications; and
- administrative revocation investigations of registrants which could result in the denial, suspension or revocation of a DEA registration based on public interest grounds.

Another purpose of the diversion control program is to identify international drug shipments which are destined for illegal smuggling operations. Through diplomatic and operational efforts, DEA has effectively curtailed the diversion of foreign-source methaqualone into the United States and has stimulated many initiatives and control measures taken by foreign governments, Interpol and the United Nations to reduce the international diversion of legitimate drugs and essential chemicals.

Other diversion control activities include the registering of all legitimate drug handlers, establishing manufacturing and production quotas of Schedule I and II substances, monitoring all imports and exports of controlled substances, and assisting state and local governments in their efforts to suppress drug diversion.

During FY 1984, DEA conducted 226 criminal investigations and 667 periodic unannounced investigations of DEA registrants resulting in 165 arrests and approximately \$2 million in fines, penalties and asset removals. As a result of the 667 periodic, unannounced investigations conducted, corrective action was taken against 258 firms. A substantial increase in diversion investigator positions is being requested to implement the new administrative revocation provisions of the Comprehensive Crime Control Act of 1984. With this staffing increase, DEA could reduce the level of diverted drugs by an estimated additional 100 million dosage units per year.

#### PREVENTION AND EDUCATION

Preventing drug abuse before it starts is the long-range solution to resolving the drug problem. We, in federal law enforcement, have a unique sensitivity and perception as to the consequences of drug abuse.

DEA is involved in its most ambitious prevention activity to date. DEA is reaching out to young people through a joint drug prevention venture with athletes in The Sports Drug Awareness Program. The FBI, the National Football League, along with its Players Association, the International



Association of Chiefs of Police and the Office of Juvenile Justice and Delinquency Prevention all are supporting this program through the National Association of High School Athletic Coaches.

As a former coach, I am particularly sensitive to the need for such an effort. I believe the impact we can expect to make by reaching the younger generations of students through a vehicle to which they can better relate is great. Our goal is to reach 48,000 coaches in 20,000 high schools across the country who can in turn help us use 5.6 million student athletes as role models. These athletic leaders will exert positive peer pressure to keep other youths away from drugs. Due to the crucial needs and demands of the program, we are already expanding the scope of its activity. In the first six months of this program, over 3,000 coaches received information or training and over 100,000 specially prepared sports and drug abuse publications were distributed. Phase II of the program was expanded in November of 1984 to include 41 organizations to reach up to 57 million young people.

#### ORGANIZATION SUPPORT

I would also like to take this opportunity to acknowledge the important role which the DEA support staff plays in drug law enforcement. Our special agents are effective in our Enforcement efforts because of the assistance they receive from the professional staffs in intelligence, science and technology, training, analytical testing laboratories, and logistical support.

COMPREHENSIVE CRIME CONTROL ACT OF 1984

I would like to conclude with a comment concerning the Comprehensive Crime Control Act of 1984.

For DEA, the impact will be great: increased trafficking penalties and bail reform; establishing administrative registrant revocation in diversion control; emergency drug scheduling, enhanced asset seizure and forfeiture authority and uniform sentencing.

On the whole, we welcome this statute as an important signal to criminals and to the international community, that our government means business in drug crime control.

This concludes my statement, Mr. Chairman. I shall be pleased to answer any questions you or other members of the Subcommittee might have.

## COMPREHENSIVE CRIME CONTROL ACT

Mr. SMITH. Well, let's start with the Comprehensive Crime Control Act of 1984, which is a 600-page amendment to the continuing resolution that was born about midnight on October 1st, and as I told the Attorney General yesterday, and as you probably know, the Authorizing Committees were just never able to get together on their own. So finally Senator Rudman and I sat down with them and we just picked and chose and wrote a few words in and got the bill, finally.

You said the Act is going to help with regard to drug enforcement. Do you anticipate any problem? I know there are going to be problems, because when you draft a bill that way and pass it, there are bound to be some problems. Do you see any problems there with regard to drug enforcement at this time?

Mr. LAWN. No, sir, I do not. We are very supportive of it and very appreciative especially of the provisions in the bill in the diversion area. We think this has been an area which we have not been able to address because there was no legislation to assist us, to address the diversion of licit drugs. We now have those provisions. We believe that the support to the state and local task forces is something else which is very important to the total drug effort.

## BUDGET REQUEST

Mr. SMITH. If you see during the next few months, as I think you probably will, some minor adjustments at least that need to be made, we will take care of them the same as these major ones we are taking care of. We do work with the Authorizing Committee, and if we can't get something done one way we will try to do it another.

Having said that, I note in your statement you are asking for \$345,671,000, and that compares with \$305 million that is requested for legal services by the Legal Services Corporation. The Administration would like to zero it out completely.

I can't help but think what a sad commentary it is on our society that in 1985 we will spend more trying to protect people from harming themselves with drugs than we spend on trying to help people, law-abiding citizens, get legal help so they can negotiate the obstacles in government. It is a sad commentary, and I really wonder if we are in any position to criticize governments like Sudan, because they have such stringent laws, when they don't have any drug problem.

I think we need to reevaluate these criminal laws, and I hope that that Crime Control Act is a beginning of trying to do something about allocation of our resources where they can better be used.

## SUPPLEMENTAL REQUEST

In your supplemental you are asking for \$2,700,000 for 156 positions, and you state that they will result in 550 additional revocations, suspensions, denials or surrenders for cause, resulting in 690 additional investigations. I have trouble putting all these figures together. How do you come up with that set of figures?

Mr. LAWN. Mr. Chairman, if I may, I would like to call upon our Diversion Control Chief, who would have the particulars on that particular question. Mr. Haislip.

Mr. Haislip. Yes, sir.

Mr. Chairman, this is a new effort chartered by the Congress as part of the President's legislation, but it is a unique way of solving some of the problems that we are confronted with. A great many legitimate drugs, narcotics and depressants are diverted by practitioners, that is to say physicians and pharmacists, in a great many schemes. What we will do with the new authority the Congress has given us is to deny to the practitioners the privilege of having access to controlled drugs, based on their behavior and the need to protect the public health and safety.

Now we have experience conducting criminal investigations in this area. And, we believe that what Congress has given to us can result in a great deal more actions because they are civil actions. We will continue the criminal cases for those worst-case situations, but we will be taking civil actions in many others, and we believe we can do this on a much more cost-effective basis. Our estimate is that with these new resources we should be able to deal with this number of derelict practitioners.

Mr. SMITH. I guess what I am looking at is 156 positions and 690 investigations. That is only about four investigations for each position. That seems like a low number to me to start with. Then you only get 550 revocations, suspensions, denials, and surrenders for cause. That doesn't seem like a high enough number. That is what I am getting at.

Mr. Haislip. The 156 positions do, of course, include clerical support, but there will be 126 new investigators of that 156. The rest is support. So, it is 126 investigators that will be producing the result. And I would like to say I hope that we will do better. But since we have no experience with this new approach that the Congress has just authorized, this is our estimate. I believe that it will turn out to be a conservative estimate.

Mr. SMITH. That will mean that an investigation, on average, takes three months?

Mr. Haislip. That is a conservative estimate. Now, in each of these cases, though, we believe that hundreds of thousands—

Mr. SMITH. Of course, an agent may have more than one investigation going at the same time.

Mr. Haislip. Exactly, of course.

Mr. SMITH. It just seems awfully conservative, to me. It seems like they ought to be able to do more than that with so many positions.

Mr. Haislip. You know we would rather show up good at the end of year than short, so you can appreciate that we are making a conservative estimate based upon the experience we have in the criminal area.

#### PROPOSED RESCISSION

Mr. SMITH. At the same time you are asking for rescission of \$876,000. What impact will that have on what programs?

Mr. LAWN. The rescission of \$876,000, does not involve special agent positions. These funds will be taken from the administrative services side, from travel, publications, and public relations.

Mr. SMITH. You don't show any positions being reduced.

Mr. LAWN. I am sorry, Mr. Chairman. I see before me here—

Mr. SMITH. How do you accomplish this, and what impact does it have?

Mr. LAWN. We believe that the \$876,000 will not have a direct impact on our enforcement efforts. The rescissions are in an area where we can continue our enforcement efforts substantially, and yet take the—

Mr. SMITH. What kinds of resources are we talking about eliminating?

Mr. LAWN. We are eliminating, as I said, public affairs, resources in public affairs, in printing and publications, and in travel and transportation.

Mr. SMITH. Were you traveling too much, printing too much and had you too many people running around representing you?

Mr. LAWN. We certainly believe that we weren't doing any of those things too much. But when it comes to economy of resources, which all of us are looking at, we have to find reductions.

Mr. SMITH. Those are your least essential, is that what you are saying?

Mr. LAWN. Yes, sir, those are the least essential.

Mr. SMITH. You don't think that would really hurt your operation then?

Mr. LAWN. No, sir, it will not hurt our investigative operations at all, and it is part of the legal requirement that we do this.

#### IMPACT OF PAY INCREASE

Mr. SMITH. You are asking for additions while we are rescinding. I guess you could do some shifting. In what areas are you going to absorb these pay costs? The pay cost increase was 3.5 percent but you are absorbing part of it, aren't you?

Mr. LAWN. This is Mr. Hogan.

Mr. HOGAN. Yes, Congressman Smith. We are absorbing, I am advised, 12 percent of the pay raise. That would be absorbed across the board within our payroll account.

Mr. SMITH. By attrition?

Mr. HOGAN. We would either do that or have to reprogram funds into that area to cover our payroll costs.

#### REQUEST TO OMB

Mr. SMITH. What was your request of OMB?

Mr. HOGAN. I just want to make sure we have the exact figures.

Mr. LAWN. Our request was for \$391,803,000, and 4,946 positions.

Mr. SMITH. 4,946?

Mr. LAWN. Yes, sir.

Mr. SMITH. But in your budget request to us, you are asking for 4,564 positions. That is about 400 fewer positions and \$46 million less in funds. What was represented in those positions and that money which you are not including in this request?

Mr. LAWN. We had in the initial request requested enhanced positions in the area of special agents and in support personnel, for domestic enforcement and for the Organized Crime Drug Enforcement Task Forces.

Mr. SMITH. In other words, you are just not going to have quite as much of an increase in those areas as you wanted; is that right?

Mr. LAWN. Yes, sir.

Mr. SMITH. No increase at all?

Mr. LAWN. We will have no increase as far as special agent complement. Our operational budget will be the same. Our budget for intelligence will be the same, and for support services will be the same. The only increases are in the diversion control area.

#### STATE AND LOCAL TASK FORCES

Mr. SMITH. What kind of personnel do you use in cooperation with state and local task forces?

Mr. LAWN. We use special agent personnel.

Mr. SMITH. Are you going to increase that activity?

Mr. LAWN. We have no request for an increase as far as the state and local task forces are concerned.

Mr. SMITH. We talked to the Attorney General about this yesterday, and I thought from the things I read in your proposals that this is an area where you are getting a lot for the money. Is that true or not?

Mr. LAWN. Yes, sir, it is. As I mentioned, the conviction rate of the state and local task forces is 96 percent.

Mr. SMITH. And then the state and local governments are putting up a considerable amount of resources. You just put up part of it?

Mr. LAWN. Yes, sir. We put up personnel although the state and local authorities put up substantially more personnel than we do, and we put up equipment.

Mr. SMITH. If you are not going to have any more resources devoted to any more special agents in this area, how are you going to increase the activity in this area?

Mr. LAWN. We can continue. We have 22 funded task forces around the country, and several others, I think another 24 informal task forces which are continuing to operate on a state and local cooperative basis.

Mr. SMITH. You just intend to keep that same number?

Mr. LAWN. Yes, sir, we do.

Mr. SMITH. In allocating your resources, wouldn't it make sense to increase that activity rather than something else? Wouldn't you get more for the money then?

Mr. LAWN. There is a difference, Mr. Chairman, between the role of the state and the local task forces and the role of the federal enforcement effort. The federal enforcement effort is targeted against major traffickers, international trafficking cartels, where the state and local task forces are targeted against those individuals who have the greatest impact on the state and local levels.

Mr. SMITH. But as we have federal task forces in Florida, for example, problems erupt in other places, and your state and local task forces do help, don't they?

Mr. LAWN. Yes, sir, they help in taking out the mid-levels of the trafficking organizations.

#### INTERNATIONAL DRUG TRAFFICKING

Mr. SMITH. Your activity there helps you to detect where the international traffickers are coming in?

Mr. LAWN. I think Mr. Chairman, the converse is true. The efforts with which we are involved in the Organized Crime Drug Enforcement Task Forces, these are targeted against the cartels, the international cartels. On the state and local levels, we are involved in those mid-level traffickers who are furnishing the drugs on that level. So when it comes to prioritization, it is more important to take on the national level, in response to the federal strategy, to take the international cartels out of business.

Mr. SMITH. Can you separate it that much, though? Don't you, in those state and local task forces where you are looking for this mid-level person, sometimes run into intelligence and information that leads you to the others?

Mr. LAWN. Yes, sir. The intelligence, certainly. All of the intelligence is filtered through the El Paso Intelligence Center.

Mr. SMITH. They got it from some place and it goes up the line?

Mr. LAWN. Yes, sir. The converse is also true. Intelligence is developed on the higher level which impacts upon the local level.

Mr. SMITH. Is there a shifting going on, of entry points and sources?

Mr. LAWN. Yes, sir, there is.

Mr. SMITH. Substantial?

Mr. LAWN. Yes, sir. We see the trafficker who is well equipped, well financed, looking at where the major enforcement efforts are, and shifting his trafficking patterns to adjust to our enforcement efforts.

Mr. SMITH. Is there an increase through Central America?

Mr. LAWN. Yes, sir, it has increased through Central America. Specifically, we see additional cocaine coming out of Peru, coming out of Bolivia, but we see a substantial reduction in cocaine and marijuana coming out of Colombia.

Mr. SMITH. Working its way up through Central America?

Mr. LAWN. Yes, sir, working its way up through Central America through diverse trafficking routes.

Mr. SMITH. It is a huge border down there. How are we ever going to stop it?

Mr. LAWN. Stopping it at the border probably is the least effective thing we can do. More effective is increased intelligence, increased personnel overseas. That is the front-line of this defense.

Mr. SMITH. There is no way you can stop it at the border. Since the border is so long, there is no way to station enough people to stop it at the border. It is just going to come across, isn't it?

Mr. LAWN. Historically, it has been coming across, but I think there is a dual attack. One is the international enforcement efforts, the major domestic enforcement efforts against the major cartels. But when all that is accomplished, we still have the use problem, so it has to be the second prong of attack, and that is on the education side.

Until we as a country decide we are not going to be the country that uses more drugs than any other country, we are going to continue to have the problem. If we were to block the southern border, the drugs would come in somewhere else.

#### INTERNATIONAL COOPERATION

Mr. SMITH. Then you get to what you called one of your elements, and that is international cooperation.

Mr. LAWN. Yes, sir.

Mr. SMITH. Of course, if we had enough cooperation from Central American countries, they wouldn't have a conduit through which to get it up here. You have gotten some increased cooperation from Colombia, for example. How about Peru?

Mr. LAWN. In Peru, the cooperation certainly has not increased. It has not increased on the level that the cooperation from Colombia has increased, nor has the cooperation from Bolivia.

Mr. SMITH. How do you account for the increased cooperation we are getting from Colombia, and why didn't we get it sooner?

Mr. LAWN. I think the catalyst for cooperation from Colombia, which five years ago was a major source problem for the United States, was the assassination of Foreign Minister Lara. The Colombian Government then realized that it was not simply a source, it wasn't the problem of the United States as a consumer country, that indeed this was an international problem, because the terrorists in Colombia were using narcotics trafficking to support their terrorist activity. The Revolutionary Armed Forces of Colombia, and the M-19 were using their cocaine trafficking to support their efforts.

Mr. SMITH. So it finally gets bad enough so those governments recognize it is in their interests too?

Mr. LAWN. Yes, sir, not only because of the terrorist activities but because of the user population being developed in source countries.

Mr. SMITH. Then you get almost a revolutionary element there that can be bigger than the government with the amount of money they have available. What happens as it works its way up through Central America, are we getting much cooperation there?

Mr. LAWN. Yes, sir. We have an indictment of individuals in the Nicaraguan Government that alleges that persons in the Government of Nicaragua are supportive of narcotics trafficking through Nicaragua into the United States, as we had a similar indictment of officials in the Government of Cuba.

Mr. SMITH. Has the Cuban thing gotten worse or better?

Mr. LAWN. There has been no increase and no intelligence indicating that there has been any increase in the involvement of the Cuban Government since last year.

Mr. SMITH. Of course, it moves to the place of least pressure. There is less pressure the other way up through, I suppose, now, with the Florida Task Force and activities in that area, the Coast Guard.

Mr. LAWN. Yes, sir.

Mr. SMITH. Mr. Dwyer.



## DIVERSION CONTROL

Mr. DWYER. Thank you, Mr. Chairman.

I was interested in your earlier discussion on diversion and the remarks about how well the Comprehensive Crime Control Act is going to help in that particular area.

Mr. LAWN. Yes, sir. As a result of the authority given to the Drug Enforcement Administration, based upon the Comprehensive Crime Bill, three weeks ago today I signed the first emergency scheduling authority, which was published in the Federal Register, and we are looking now at a second.

Mr. DWYER. It would seem to me that you probably were working on a lot of files in that particular area prior to the adoption of the act. Can we anticipate then a quick move against some of the illicit professionals who are diverting these drugs?

Mr. LAWN. We would like to think that we will move quickly, once we determine who they are, yes, sir.

## CHEMICAL CONTROL

Mr. DWYER. On page 9 of your statement you talk about the price of a 55-gallon drum of ether going up from \$180 a drum to \$10,000 a drum. Do you think that makes any difference in the control of distribution of cocaine?

Mr. LAWN. Yes, sir, I most certainly do. The traffickers in times past could purchase the ethyl ether for the refining process with little difficulty. With the initiation of the Chem Con program we have made it, based upon the cooperation of the chemical firms, extremely difficult for the trafficker to get the ethyl ether, which is a necessary ingredient. The trafficker heretofore could not find a substitute for ethyl ether.

Recently I visited Colombia and spoke with General Delgado, the head of the Colombian National Police, who told me that the major trafficking organizations in Colombia, because of the paucity of ethyl ether, are now looking for trafficking organizations that will market in cocaine base and cocaine paste, because they don't have the ethyl ether in order to create the cocaine hydrochloride. We think it is effective, and we think that more efforts in the chemical control program will assist not only in the trafficking in cocaine, but also in heroin and in PCP.

Mr. DWYER. Was the country source of the ethyl ether this country?

Mr. LAWN. This country is a predominant source, as is West Germany.

Mr. DWYER. Are the West Germans cooperating in this?

Mr. LAWN. Yes, sir, they are.

Mr. DWYER. Have they stopped the exportation of ethyl ether?

Mr. LAWN. They have assisted us in stopping it, but there are still firms, as there are several firms in the United States, that will cooperate with trafficking organizations, because there is considerable money to be made in this trafficking, so there is not total cooperation. If there were total cooperation, we would take the ethyl ether supply away from the traffickers totally.

Mr. DWYER. Is there something lacking in the laws that you have at your disposal that would preclude your doing this?

Mr. LAWN. No, sir. This Chem Con program, the chemical control program, was an initiative that began several years ago, and it is bearing fruit now. We think that based upon the legislation we now have, it is a very effective tool for us.

Mr. DWYER. So that the DEA will be able to move against the few firms that are still doing business with the traffickers?

Mr. LAWN. Yes, sir. As recently as two weeks ago when I was in San Diego to receive the body of special agent Camarena from Mexico City, I spoke to the group of special agents involved in just such a program, who had just identified one of the chemical firms involved in supplying the ethyl ether to a trafficking organization, and we reviewed their efforts.

These are ongoing efforts, and I think that one supplier will be neutralized in the near future.

#### DRUG ABUSE REDUCTION

Mr. DWYER. Mr. Lawn, do you foresee the day when the DEA will come before this Committee and ask for a colossal reduction in your budget?

Mr. LAWN. I would like to say that I will, but I doubt that will be in my watch.

Mr. DWYER. How long is a watch?

Mr. LAWN. I would say, again projecting, I think if the federal strategy, if the five points of the federal strategy all move forward, that we won't see a substantial reduction in drug abuse in this country over the next 10 years.

Mr. DWYER. What additional points might you recommend to hasten the reduction in the use of drugs?

Mr. LAWN. That is a difficult question because we have been a drug abusing society for many, many years. In last year's high school graduating class, the graduates in that class spent 11,000 hours in an academic setting. They spent 16,000 hours watching television. One out of five commercials on television reminds our youngsters that they don't feel good or that they need to put something in their system, if they want to grow taller or grow stronger.

We are a substantial abuser country, and until we can get to those youngsters, as we are now doing with the reduction in marijuana, until we can get to a youth population and convince them that you can feel better by taking a run around the mall, we are going to continue to have a drug abuse problem.

Mr. DWYER. Thank you. Thank you, Mr. Chairman.

Mr. SMITH. The increase in drug consumption, though, is mostly among those over 25, isn't it?

Mr. LAWN. Yes, sir, it is, and specifically with cocaine.

#### INTERNATIONAL COOPERATION PROBLEMS

Mr. SMITH. I remember when those that were over 25 were teenagers, about that time before another Subcommittee that both of us serve on, NIH would come up there and say, "We have no proof that marijuana is harmful." They could have stated it the other way. We have no proof that it isn't. But they always stated it that way. We used to talk to them about that. Of course, it takes

several years of experimentation to prove anything, but I am afraid that is some of what went on during that period of time.

With regard to our agents overseas, we don't have a way to cooperate with the Government of Iran, but we do have agents, of course, in Rome and Greece and Istanbul and Paris and other places trying to help stop that traffic. Are we getting good cooperation from them? Is that working out well?

Mr. LAWN. Yes, sir. Certainly we have no cooperation on the drug enforcement side, and while I can't speak for the rest of our foreign policy, certainly in the drug enforcement area we have no cooperation with Afghanistan or with Iran, which are substantial source countries and substantial sources of our problem.

But in areas like Pakistan and Thailand, we are seeing increasing cooperation. We are very encouraged by the cooperation we are receiving. We have already talked about Colombia, about the substantial turnaround with the cooperation we are receiving from Colombia.

Mr. SMITH. Of course when our agents are in a place like Paris, it depends on the law enforcement officers in France, too. I mean, after all we are in their country. Are we getting good cooperation from Greece, Turkey and France?

Mr. LAWN. Yes, sir. In those countries our cooperation is very effective.

Mr. SMITH. Those are all still major sources, exchange points?

Mr. LAWN. Paris, not so much. Paris, really Marseilles, was in the 1970's with the French connection, but it is important for us to maintain that liaison in countries like France, as a continuing transshipment point, not to the extent it was in the seventies but in those countries the cooperation is excellent.

#### LANGUAGE REQUEST FOR VEHICLES

Mr. SMITH. With regard to the language request relative to special vehicles, explain the need to require special automobiles without regard to the price limitation.

Mr. HOGAN. That is the normal request we would have with respect to vehicles, the need for 126 investigators.

Mr. SMITH. Explain for the record so we will have it on the record.

Mr. HOGAN. We buy special-purpose vehicles, police-type vehicles, rather than standard vehicles purchased by the government.

Mr. SMITH. And you can't get them within the price limitation?

Mr. HOGAN. Yes, sir. That is correct.

[The following information was submitted subsequent to testimony.]

#### NEED FOR EXCEPTION FROM VEHICLE PURCHASE PRICE LIMITATION

The vehicles purchased by DEA, while not necessarily for undercover purposes, are selected so that their use is not limited to specific purposes. The basic criteria for model selection is the necessity that they must blend in with the general civilian vehicle population and not appear to be "standard government vehicles." Having vehicles not associated with government or police work, i.e., basic standard 4-door models, is essential for surveillance purposes which constitute the majority of DEA's vehicle usage.

Of equal importance to model selection and directly related to "police-type use," is the need to obtain properly equipped vehicles. In order to adequately perform vehi-

cle surveillance, agents must be supplied with units having high performance engines, cooling systems, brakes, and suspension systems, none of which are available within the price limitations of "standard government vehicles."

#### DEA/FBI COOPERATION

Mr. SMITH. In the last four or five years we have had three or four different reorganizations, DEA, then we brought the FBI in and everybody is under the Justice Department. How is this working out?

Mr. LAWN. I think it is working out most effectively. As we had indicated, our joint efforts have been substantial and extremely successful. Our use of Title III has tripled.

Mr. SMITH. Do you see any change in this area? Is there any change contemplated that you know of at your level?

Mr. LAWN. Well, sir, I see changes that are trying to enhance cost effectiveness between DEA and the FBI, areas like ADP. For example, beginning on Monday of next week, the DEA vehicles in 14 cities will be serviced by the mechanics of the Federal Bureau of Investigation. We are looking at compatible radio systems, so that we then can utilize a common radio system and utilize the expertise of the electronic technicians who service the FBI radios. So we are continuing to look in those areas where further cooperative efforts could result in cost savings.

Mr. SMITH. Is there any reluctance for agents to work together and share information completely, between DEA and FBI, for example?

Mr. LAWN. I would say, across the board, no. There may be entities where personalities would desire not to cooperate, but I would say as the head of the Drug Enforcement Administration that the cooperation between DEA and the FBI is outstanding.

#### TRAINING OPERATIONS

Mr. SMITH. We have reports that you are considering a reprogramming to move your training operations. Is that so?

Mr. LAWN. Yes, sir. We have a study underway.

Mr. SMITH. What is behind that?

Mr. LAWN. We are part of the Federal Law Enforcement Training Center in Glynco, Georgia, and we are one of the user services at the Federal Law Enforcement Training Center. Because of the increases among other agencies, the Immigration and Naturalization Service, for example, there is a premium on space. We have asked that a study be conducted to look at other alternatives for training, one of which was the ability for us to train our new agent personnel at Quantico. It is a study, and we are reviewing it internally. We have discussed it internally with the Federal Bureau of Investigation.

Mr. SMITH. The idea of having the center in Georgia was that if we had more things in one place, it would be more efficient, not only money-wise but also it would be more effective. Has it been effective? Has it been a good training center, or is it not as good as Quantico?

Mr. LAWN. The training has been effective. I have been at FLETC. Each time we have had a graduating class I have traveled

to FLETC. The difficulty that arises is that the basic investigator course given to all personnel who attend the Federal Law Enforcement Training Center is more basic training than a special agent of the Drug Enforcement Administration needs. About 80 percent of the new agents who come into the Drug Enforcement Administration have prior law enforcement experience, so we focus our training specifically on the needs for a drug enforcement agent to go into the street.

Mr. SMITH. More of an advanced training center, then?

Mr. LAWN. Yes, sir. I would say that we could effect more appropriate training at a facility like Quantico, or a training facility similar to Quantico.

Mr. SMITH. Of course, Quantico has some basic training, too.

Mr. LAWN. Basic agent's training?

Mr. SMITH. Yes.

Mr. LAWN. Yes, sir. As part of our study, we did not intend to comingle DEA training with FBI new agent training. What we looked at was the potential for cost savings. Right now in the Federal Law Enforcement Center in Glynco, Georgia, the FBI sends legal instructors to Glynco, to instruct us in the legal area. We have exchanged personnel in those areas. We are using FLETC to train FBI agents in drug law enforcement. We think that there could be cost savings in doing all that training at a—

Mr. SMITH. When will you have that study completed?

Mr. LAWN. We have furnished a draft of this study to Director Webster. We plan next week, I believe Wednesday of next week, to discuss it further with Judge Webster, to determine whether it is feasible, what cost savings we are looking at.

Mr. SMITH. Within DEA apparently you decided it would be a cost savings; is that right?

Mr. LAWN. Yes, sir, there would be a cost savings, but over and above the cost savings, I think it would allow us the ability to ensure that when our special agents graduate and enter the difficult job of drug law enforcement, they would be better trained.

Mr. SMITH. In this study, are you taking into consideration any adverse impact, if any, that there might be on the Georgia facility?

Mr. LAWN. Yes, sir. In our particular study we talked about the cost benefit, long-term benefit, and the short- and long-term downfall.

#### WIRETAPS

Mr. SMITH. With regard to wiretaps, you had 80 of these in 1984?

Mr. LAWN. Yes, sir.

Mr. SMITH. Are you experiencing any problems under the law that require certain procedures?

Mr. LAWN. No, sir. We, as you know, go through a very stringent procedure in effecting the wiretap. I have heard of no instances where we thought the technique was necessary, where the technique was not used.

Mr. SMITH. Has it been very effective in some of your larger law enforcement activities?

Mr. LAWN. Yes, sir, it has been most effective.

## SATELLITES FOR CANNABIS ERADICATION

Mr. SMITH. What about the use of earth-orbiting satellites to locate places where they cultivate plants and other things?

Mr. LAWN. We have used any of a number of scientific developments to assist us in locating cannabis cultivation. To the present time we feel the most effective means of determining cannabis cultivation is by low-level flying, and that is the reason why we have increased our training of state and local officers on the aerial observation program.

Mr. SMITH. Then the use of satellites is not very beneficial?

Mr. LAWN. We haven't found it to be cost effective, nor have we found it to be as effective as low-level flying.

## CANNABIS ERADICATION PROGRAM

Mr. SMITH. With regard to our cooperation with Mexico on marijuana, are we really getting anywhere with trying to eradicate the plant?

Mr. LAWN. Yes, sir, we are. In 1976 Mexico was a major source country and a tremendous problem area for the United States in heroin and marijuana. In 1977 we began the program, and it has been funded substantially from 1977 until the present time. Until about 18 months ago, Mexico was a model country.

Whenever foreign visitors asked about an eradication program, we would take them to Mexico, or at least address with them the eradication programs in Mexico. However, in the past 18 months we have seen the Mexican program lose some effectiveness, and as recently as last Friday Attorney General Meese met with the Attorney General of Mexico to discuss what we believe to be a downfall, a decay in the program. I will be meeting again with representatives from Mexico in the next few weeks to talk about how we can turn that around.

Mr. SMITH. What we used to call hemp, you can see that from an airplane. How can you ever stop growing the weed in that kind of a climate?

Mr. LAWN. As you indicated, hemp marijuana was something that was cultivated here in the United States during World War II. The hemp marijuana is different from the marijuana used for—

## CONDITIONS REQUIRED TO GROW MARIJUANA

Mr. SMITH. But, genetically, there are similar characteristics. Anywhere you can grow hemp you can grow the other.

Mr. LAWN. Yes, sir, marijuana is a weed. It will grow pretty near anywhere, but the potency of the marijuana is what is creating the problem.

Mr. SMITH. That is relative to climate. You can grow that plant in Mexico better than in Iowa, because of the climate, right?

Mr. LAWN. In part. I think the cultivation of the plant, the quality of the species is what determines the potency of the plant, and if an individual were to grow hemp for a potent cannabis, it would be—

Mr. SMITH. You can eradicate it, but is it possible really to keep from having a huge supply?

Mr. LAWN. Yes, sir, we believe it is.

Mr. SMITH. You do?

Mr. LAWN. In 1979 there were two states involved in the program. Now we have 50 states. As you also mentioned, in 1977 people didn't think of marijuana as being a health problem. Dr. Richard Dupont, the Director of the National Institute of Drug Abuse, did not perceive that marijuana was a major problem in 1977. In 1978 he was quoted as saying that marijuana use was potentially the most serious health hazard facing this country.

Mr. SMITH. But that doesn't get to the question of whether or not you can stop them from growing marijuana in Mexico.

Mr. LAWN. Well, in Mexico, as I say, we did have an effective program, and we can have an effective program again. I think that with the increased cooperation of the Mexican Government, we could minimize cultivation of marijuana in Mexico.

Mr. SMITH. It really depends on the Government of Mexico really clamping down on those that are caught, doesn't it?

Mr. LAWN. As it does on the Government of the United States with the domestic cultivation.

#### CULTIVATION OF MARIJUANA IN THE UNITED STATES

Mr. SMITH. Domestic cultivation in this country is increasing, too, isn't it?

Mr. LAWN. We had estimated two years ago that of the marijuana we were consuming, 10 or 11 percent was domestic. Now we believe it to be 9 percent, and we hope that with our program it will continue to—

Mr. SMITH. In tons or pounds or however you measure it, though, is that more tons and pounds or not?

Mr. LAWN. We see less tonnage or fewer pounds of marijuana growing domestically, because as I said, the demand for marijuana is decreasing in the United States.

Mr. SMITH. But is the domestic variety now more potent than the type they were growing 10 years ago?

Mr. LAWN. Yes, sir, it is.

Mr. SMITH. So it doesn't take as much?

Mr. LAWN. Perhaps that is the case, but once the youngsters decide that they are not going to use it, it doesn't matter whether it is potent or not potent. It is the education.

Mr. SMITH. That is the other side.

Mr. LAWN. Yes, sir.

#### COMPUTER BACKUP SYSTEM

Mr. SMITH. You state that DEA will not be able to back up the DATS system at the Justice Data Center in case of catastrophic failures or down time. Have you had those types of failures or some of that down time, and how much of a risk is this?

Mr. LAWN. Could we, Mr. Chairman, provide an answer for the record?

Mr. SMITH. Okay, and what can we do about it.

Mr. LAWN. Yes, sir, we will address those issues.

[The information follows:]

## PROBLEM WITH COMPUTER BACKUP

In order to insure that the law enforcement data bases are not irretrievably lost due to a catastrophic failure or event, or are not unduly inaccessible because of downtime, it is necessary that the Department of Justice (DOJ) maintain a backup to the primary computer. To insure that the data bases are available to DEA investigators on a 24-hour a day, 7 day a week basis, the backup site must be kept in a ready state. DEA is required to maintain the backup capability on a current basis, which includes testing a contingency plan periodically, and providing liaison between DEA and the backup site. Planning is underway to use the DOJ new Dallas facility as a backup site.

There have been instances of downtime on the DOJ computer attributable to a variety of reasons, such as planned maintenance and electrical or air conditioning outages. These instances result in the inability of investigators to secure the data they need in a timely manner and can adversely affect the development of cases.

At the present time, there is no assurance that the backup capability in place would be adequate because of the lack of a tested contingency plan and resources to staff the function.

Mr. SMITH. I think that is all we have for now. Thank you. We have some additional questions which we shall submit and you can answer for the record.

[Questions submitted for the record follow:]



QUESTIONS SUBMITTED BY CONGRESSMAN SMITH  
DRUG ENFORCEMENT ADMINISTRATION

FY 1985 Supplemental Pay Requirement

QUESTION:

You are requesting \$4,682,000 for an FY 1985 pay supplemental. Does this represent the total requirement for the 3.5 percent pay increase granted Federal civilian employees on January 1, 1985?

ANSWER:

No; the \$4,682,000 represents 83.5 percent of the estimated requirement for the 3.5 percent pay raise effective January 6, 1985. DEA will absorb \$927,000.

QUESTION:

In what areas are you absorbing these pay costs for fiscal year 1985 and what impact will such absorption have upon your anticipated program level?

ANSWER:

The pay raise absorption will be reflected in reduced overtime and deferred hiring.

FY 1985 Rescission Proposal

QUESTION:

In what specific areas will you be cutting expenses related to the \$876,000 proposed rescission and what impact will this rescission have upon your program operations?

ANSWER:

The greatest programmatic impact of the rescission would be in the public affairs area, (\$243,000) if we are mandated to apply the rescission as now formulated. If this happens, drug prevention and education activities would be affected. The other areas of reduction in the rescission are in publications (\$81,000), and travel (\$552,000).

FY 1986 Request

Appropriation Language Changes

QUESTION:

You are requesting an increase from 517 to 552 in the number of passenger motor vehicles that may be purchased for police-type use without regard to the general purchase price limitation. Why does

DEA need to acquire passenger motor vehicles without regard to purchase price limitations since DEA seizes usable luxury vehicles for undercover use? Shouldn't standard government vehicles be sufficient for official use other than that relating to undercover activities?

ANSWER:

The Drug Enforcement Administration places approximately 250 seized vehicles per year into service. The basic criteria for placing a vehicle into service is its relative operating condition. Of the 250 vehicles, approximately 30 percent are other-than-standard sedans associated with undercover use. The remainder of the vehicles are basically a cross section of the general civilian vehicle population.

The vehicles purchased by DEA, while not necessarily for undercover purposes, are selected so that their use is not limited to specific purposes. The basic criteria for model selection is the necessity that they must blend in with the general civilian vehicle population and not appear to be "standard government vehicles." Having vehicles not associated with government or police work, i.e., basic standard 4-door models, is essential for surveillance purposes which constitute the majority of DEA's vehicle usage.

Of equal importance to model selection and directly related to "police-type use," is the need to obtain properly equipped vehicles. In order to adequately perform vehicle surveillance, agents must be supplied with units having high performance engines, cooling systems, brakes, and suspension systems, none of which are available within the price limitations of "standard government vehicles."

Proposed Administrative Reductions

QUESTION:

You are proposing reductions totalling \$2,225,000 and 22 positions for FY 1986. What specific areas will these reductions come from and what impact will these reductions have on your enforcement programs?

ANSWER:

The reduction of 22 positions and \$2.2 million results from a government-wide 10 percent administrative decrease.

Thirteen of the positions are applied to the Executive Direction and Control program which incorporates staff functions such as legal counsel, financial and resource control, and planning, evaluation and inspection. Nine of the positions are applied to the Administrative Services functions, which includes personnel and administrative services functions.

Application of the reduction to specific functions is under study and will be made to minimize long-term adverse impact.

Other DecreasesQUESTION:

The justifications indicate a reduction of \$1,041,000 for a Standard Level User Charges (SLUC) redistribution. Could you explain this reduction to the Committee?

ANSWER:

Estimates originally submitted to the Department of Justice (DOJ) for SLUC were formulated on a higher level of planned activity than was eventually approved by DOJ.

This reduction brings into line the amounts for the preapproved estimated activity and the currently authorized level of activity in the SLUC accounts.

Request to the Department and OMBQUESTION:

Except for the increases to annualize the new positions that are requested in the program supplemental, you are not requesting any major increases for FY 1986. Indeed, you are proposing program reductions. What was your request to the Department of Justice and to the Office of Management and Budget for FY 1986 and what program increases were included in those requests that were not submitted to the Congress?

ANSWER:

The request to the Department of Justice was for \$533,712,000 and 6,050 total positions, including 569 additional agents.

The request to the Office of Management and Budget was for \$391,803,000 and 4,946 total positions, including 290 additional agents.

A summary of the requested increases follows:

Program Increase Requests  
(Dollars in thousands)

	<u>Request to DOJ</u>			<u>Request to OMB</u>		
	<u>Pos.</u>	<u>Agents</u>	<u>Amount</u>	<u>Pos.</u>	<u>Agents</u>	<u>Amount</u>
<u>Domestic Enforcement</u>						
1)Field Investigations	446	350	\$46,136	94	72	\$9,517
2)Purchase of Evidence/ Paymt for Information	...	...	12,000	...	...	...
3)Expansion of support	150	90	22,824	...	...	...
<u>OCDE Expansion</u>	...	...	...	250	200	19,841
<u>Foreign Cooperative Investigations</u>	62	38	8,819	10	6	1,303

	<u>Request to DOJ</u>			<u>Request to OMB</u>		
	<u>Pos.</u>	<u>Agents</u>	<u>Amount</u>	<u>Pos.</u>	<u>Agents</u>	<u>Amount</u>
<u>Diversion Control</u>						
1)Administrative revocation	150	...	\$6,248	19	...	\$463
2)State Assistance	32	...	2,879	12	...	370
<u>Intelligence</u>						
National Intelligence estimates	99	...	5,056	16	...	2,064
<u>DEA Laboratory Services</u>						
Forensic Support/ determination of source	74	...	4,258	20	...	275
<u>DEA Training</u>	74	27	5,924	10	5	1,033
<u>Technical Operations</u>						
Air Program	21	15	9,569	9	7	4,819
Communications & investigative equip.	47	...	3,985	19	...	1,380
<u>ADP Telecommunications</u>						
1)Core enhancement	162	...	34,232	20	...	10,483
2)Mission enhancement	19	...	8,609	...	...	...
<u>State &amp; Local Task Forces</u>	67	43	10,097	...	...	...
<u>Other Support</u>	209	6	11,160	29	...	996
<u>Total Enhancements</u>	1,612	569	191,796	508	290	52,544
<u>DEA/FBI Cooperation</u>						

QUESTION:

One of the objectives that is stated in your budget submission is "to increase the sharing of strategic and tactical investigative information between DEA, the FBI and other Federal agencies on narcotics and drug investigations." What have been the accomplishments to date in this area of sharing of information between DEA and the FBI? Please describe this for the record.

ANSWER:

In terms of strategic intelligence, the FBI receives copies of all periodic reporting of this nature published by DEA: the annual Narcotics Intelligence Estimate; the Quarterly Intelligence Trends; the Monthly Digest of Drug Intelligence; and other such reporting of a periodic nature (e.g., Special Reports). Additionally, the FBI is on distribution for extracts from DEA investigative reporting and the Intelligence Information Report series; in 1984, 587 reports were published in this series.

Since 1980, the FBI has had representation at the El Paso Intelligence Center (EPIC), the multi-agency effort that concentrates on

illicit border activity. A Narcotics and Dangerous Drugs Information System (NADDIS) terminal was installed at FBI Headquarters in 1982.

In terms of ongoing liaison, five FBI agents are assigned to DEA Headquarters and three DEA agents are assigned to FBI Headquarters. As a result, information is rapidly shared and acted upon at the programmatic level.

Currently, approximately 800 joint DEA/FBI investigations are open. This is an increase of 360 percent over 1982.

QUESTION:

Has there also been an increased sharing of information technology, specifically hardware, software and telecommunications networks between the two agencies? Please be specific.

ANSWER:

DEA has provided a DATS terminal to the FBI for accessing Narcotics and Dangerous Drugs Information System (NADDIS). Extensive technical information has been provided to the FBI regarding the Text Analysis System to be installed at the El Paso Intelligence Center (EPIC), the Intelligent Terminal Data Bases at EPIC and NADDIS. Information has been provided the FBI relative to DEA's computer systems and telecommunication networking requirements. The FBI is currently providing some stand-alone microcomputers to the DEA Boston Field Division. The FBI is developing plans in cooperation with DEA for the testing of a subsystem of the FBI (FOIMS) in the DEA Boston Field Division. The FBI has started a project to introduce Artificial Intelligence concepts and techniques at EPIC.

QUESTION:

With the FBI now having concurrent jurisdiction for the enforcement of Federal drug laws, has any consideration been given to involving the FBI in DEA's 23 Federal/State and Local Task Forces?

ANSWER:

Since the inception of the Federal/State and Local Task Force Program, DEA has been the lead agency in the funding and management of the program. The intent is to increase state and local law enforcement involvement and participation in the national effort against drugs. Direct FBI involvement is not considered to be essential and, in fact, could be viewed as duplicative of DEA's role.

International Operations

QUESTION:

In your statement you refer to DEA's efforts to control international drug trafficking. According to the State Department, production of both marijuana and opium has declined by more than 10 percent worldwide. However, cocaine production has gone up by more than 30 percent. What initiatives are you pursuing to reduce the production of cocaine and its entry into the U.S. market?

ANSWER:

The Drug Enforcement Administration has increased its programs to curtail the cultivation and production of coca and cocaine hydrochloride in the source countries of South America. DEA is supplying tactical and strategic intelligence to Bolivia and Peru on the size and location of coca plantations in remote areas of the Andes mountains. DEA also supplies Colombia, Peru and Bolivia with technical assistance in support of their coca eradication programs. The DEA is disrupting the conversion of coca base to cocaine hydrochloride by monitoring the large shipments of chemical precursors to South America. Through "Operation Chem Con" DEA monitors the shipments of ether and other essential chemicals in South America and is able to track these shipments to clandestine conversion laboratories. By monitoring the movements of these shipments, DEA and the governments of other countries have been able to effect their seizure in both the U.S. and other countries, including Colombia, thereby disrupting the entire conversion process, as well as causing a financial loss to the cocaine-producing consortiums.

DEA is also attempting to disrupt the flow of cocaine from Colombia to the United States by assisting the Bahamian Government in intercepting cocaine laden planes and boats refueling and offloading in the remote islands of the Bahamian chain. Operation BAT, the code name for this program, has accounted for numerous seizures, and has assisted the Bahamian Government in combating drug trafficking in its country.

DEA is also involved in a number of other technical initiatives. Among these are a feasibility study of aircraft fuel additives to aid in the detection, tracking and interdiction of smuggling aircraft. Another program under study is the development and use of a chemical herbicide effective against the coca plant.

Asset SeizuresQUESTION:

What importance do you place upon asset forfeiture as a means of dismantling and immobilizing major drug traffickers?

ANSWER:

The importance placed upon asset forfeiture by DEA as a means of dismantling and immobilizing major drug traffickers can be described by a statement made by former Administrator Francis M. Mullen, Jr. a few months ago:

The seizure and forfeiture of the ill-gotten goods of the drug traffickers, and the methods used to do this, are one of the exciting new directions that we in drug law enforcement are increasingly taking in the 1980's. Attention to the financial aspects of the multi-billion dollar illicit drug business is as important as moving against the drugs themselves. . . . Our goal is to make it prohibitively expensive for those who would break our drug laws.

QUESTION:

What efforts are you undertaking to improve upon this aspect of your investigative efforts?

ANSWER:

Work plans from DEA field offices are under continuous review to insure that emphasis is being placed on the identification of trafficker assets and the full utilization of both civil and criminal statutes to implement their seizure and forfeitures. Several DEA Divisions have established "asset seizure teams" to review all investigative cases to insure the seizure of all significant assets. The use of undercover money laundering investigations to launder traffickers' funds and then invest them in domestic assets for subsequent seizures are also being accomplished in several DEA divisional offices. All of these activities are monitored by the newly formed Financial and Special Intelligence Section located in DEA Headquarters.

"Designer" DrugsQUESTION:

According to testimony presented to the President's Commission on Organized Crime in February of 1985, new synthetic street drugs have been introduced into the illicit drug market. How widespread is the "designer" phenomenon?

ANSWER:

The term "designer drugs" refers to clandestinely produced, noncontrolled substances which are structurally and pharmacologically similar to controlled substances. The concept of producing analogs of controlled substances in an effort to circumvent the Controlled Substances Act (CSA) is not new (e.g., PCP analogs, hallucinogenic amphetamines, MDA, MDMA, EDMA). The application of this concept to the production of analogs of potent narcotics has occurred only within the past five years on the West Coast.

At the present time, reports about designer drugs focus on analogs of the Schedule II narcotic analgesics, fentanyl (Sublimaze), and, to a lesser degree, meperidine (Demerol). Both fentanyl and meperidine are produced synthetically and there are many variations of each which may produce heroin-like effects.

Since 1980 there have been six analogs of fentanyl identified in the illicit drug traffic. They have been associated with at least 90 overdose deaths with more than half of these occurring since January, 1984. The distribution of fentanyl analogs appear confined to the West Coast, particularly the San Francisco Bay area, San Diego and to a lesser degree, Los Angeles. DEA has no evidence that these substances are spreading to other areas of the country at this time.

A by-product (MPTP) formed in the synthesis of a meperidine analog (MPPP), sold as synthetic heroin in California, produced Parkinson's disease in at least seven users in 1982. Information exists that

MPPP/MPTP may again be available in California but this has not been confirmed. Again, use of MPPP/MPTP has been confined to the San Francisco Bay area.

QUESTION:

What is DEA doing to control the production and distribution of "designer" drugs and is your budget request sufficient to fund these initiatives?

ANSWER:

DEA has used both its traditional scheduling authority and its newly enacted emergency scheduling authority to place two of the "designer drugs" (alpha-methylfentanyl, 9-81) and (3-methylfentanyl, 3-25-81) into Schedule I of the Controlled Substances Act (CSA). 3-methylfentanyl is the most potent of the available "designer drugs" and has been associated with a majority of the overdose deaths since 1984. With the control of these substances, as well as fentanyl which is present as an impurity in some of these drugs, DEA will be able to pursue criminal investigations aimed at prosecuting those responsible for the production and distribution of these fentanyl analogs. In October, 1984, DEA seized a PCP laboratory which was operated by the same individuals who were suspected of producing MPPP/MPTP in 1982. At this time, DEA believes that existing resources can be used to address this problem effectively through the use of emergency scheduling and selective criminal investigations where appropriate.

ADP Program

QUESTION:

The justifications state that "DEA will not be able to back up the DATS system at the Justice Management Center in times of catastrophic failures or unscheduled down time." Has DEA experienced such system failures and if so, please describe them?

ANSWER:

To insure that the law enforcement data bases are not irretrievably lost due to a catastrophic failure or event, or are not unduly inaccessible because of downtime, it is necessary that the DOJ maintain a backup to the primary computer. To insure that the data bases are available to DEA investigators on a 24-hour-a-day, 7-day-a-week basis, the backup site must be kept in a ready state. DEA is required to maintain the backup capability on a current basis, which includes testing a contingency plan periodically, and providing liaison between DEA and the backup site. Planning is underway to use the new DOJ Dallas facility as a backup site.

There have been periodic instances of downtime on the DOJ computer attributable to a variety of reasons, such as planned maintenance and electrical or air conditioning outages. These instances result in the inability of investigators to secure the data they need in a timely manner and can adversely affect the development of cases.



At the present time, there is no assurance that the backup capability in place would be adequate because of the lack of a tested contingency plan and resources to staff the function.

QUESTION:

The budget justifications refer to plans in 1985 and 1986 for maintaining and improving DEA's data communications networks. Does DEA have plans to consolidate its data network with the Department and the FBI?

ANSWER:

DEA has a working Telecommunications Network. In our Office Automation project, we can accommodate either the DOJ or FBI approach. DEA is actively contributing to the design efforts of both the DOJ and the FBI.

QUESTION:

Since no funding was requested for the Department's consolidated Justice Telecommunications Network, will DEA require enhancements or extensions of its data network?

ANSWER:

Enhancements or extensions of DEA's network are not related to the funding for the Department's consolidated Justice Telecommunications Network.

QUESTION:

What portion of DEA's ADP and telecommunication systems is to be funded through the Organized Crime Drug Task Forces. If you are not going to fund these items through the task forces in 1986, please indicate where within your budget, funding for services previously provided with task force monies has been absorbed?

ANSWER:

The significant increases for ADP provided in the OCDE appropriation were to upgrade overall ADP capabilities to meet the additional demand brought on by the increased Drug Enforcement program activity. DEA has not reduced the amount of the ADP funding provided in the program.

QUESTION:

The budget justifications describe an office automation project that may cost over \$25 million. What communications networks will support this project, and how much of the total cost is for telecommunications?

ANSWER:

We were not able to identify the relationship of \$25,000,000 with DEA's Office Automation project, since that project will not cost that much in any one year. However, we did find a reference to over

\$25,000,000 in the second year of the "Full Encryption and TEMPEST system" request. The existing DEA network will support the Office Automation project and, at the current rates, will cost approximately \$2,200,000 per year.

QUESTION:

What are the savings or efficiencies that are expected to result from this project? Please provide documentation and a copy of any cost benefit analysis of this project to support the response.

ANSWER:

The Office Automation project is a response to the deficiencies in DEA's current capabilities identified in a study by the U.S. Air Force Federal Computer Performance Evaluation and Simulation Center (FEDSIM). The report "DEA Requirement Analysis" dated February 1983, was subsequently validated by the Office of Personnel Management (OPM) automation group and the Department of Justice. DEA expects to realize many efficiencies resulting from the Office Automation project. These include source data collection, electronic mail, electronic document transfer, standard workstations throughout DEA, local data processing capabilities, bar code inventory system for DEA property and drug evidence, high speed line printer, local statistics and graphics.

## QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

## DRUG ENFORCEMENT ADMINISTRATION

DEA ResourcesQUESTION:

In your statement, you mention some of the notable accomplishments of the El Paso Intelligence Center (EPIC). Your FY 1986 request for the total intelligence activity includes 334 positions -- the same number requested for FY 1985. If intelligence is the first line of defense and operations like EPIC are so successful, why are you not requesting additional intelligence personnel?

ANSWER:

A principal objective of the Administration's 1986 budget is to continue all possible restraints in the area of Governmental spending. Increases for programs such as EPIC and the total intelligence activity of DEA must be weighed against this overall criteria. It should be noted that the resources proposed for 1986 for EPIC will permit the current level of activity to continue.

QUESTION:

Would revenue generated from the liquidation of drug-related seized assets be used to offset a portion of your operating costs?

ANSWER:

It is hoped that revenue from the disposition of drug-related seized assets, through the Asset Forfeiture Fund established by the Comprehensive Crime Control Act of 1984, would provide some capability to offset the increased costs of seizing assets. The details of the use of the Asset Forfeiture Fund are presently being developed.

Comprehensive Crime Control ActQUESTION:

The Comprehensive Crime Control Act of 1984 will result in an increased workload for the Administration. What additional funds are you requesting to accommodate this workload?

ANSWER:

DEA has submitted a 1985 program supplemental, with the 1986 budget, for the Diversion Control program for 156 positions, and \$2,700,000 to administer portions of the Act. In addition, for 1986, the budget contains the full-year annualization of this program request for a funding total of \$10,443,000.

Other provisions of the Act are being or will be addressed within current resource levels in other programs. In the future, we will

continue to monitor the activity generated by the provisions of the Comprehensive Crime Control Act and determine the appropriate mechanism to respond.

Physical Security

QUESTION:

Since Colombian and other major narcotics traffickers have declared war on the DEA, its agents have been under siege. Death threats have been made on the lives of top agents, including yourself. What steps are you taking to secure DEA buildings and provide better protection not only to agents in the field but other personnel as well?

ANSWER:

Physical security has been upgraded for all offices, including but not limited to security guard service, security alterations, security protections such as intrusion detection and closed-circuit television systems, mail/package X-ray scanning devices, vehicle armoring, secure parking facilities, and emergency communications systems.

QUESTION:

Is this placing an added strain on the Administration's financial resources?

ANSWER:

Yes, DEA has committed \$2.8 million in 1985 alone for security problems being experienced. These costs were not anticipated when the year began, and have been absorbed within available enforcement resources.

QUESTION:

Do you believe you will require additional funds for physical security enhancements.

ANSWER:

That will more than likely be the case. At the present time we are reviewing the status of our resource availability and adjustments will be proposed as necessary.

Agent Camarena

QUESTION:

Have you made any further progress in the investigation of the death of DEA agent Enrique Camarena Salazar?

ANSWER:

Progress is being made in the investigation of Agent Camarena's abduction and murder. In Guadalajara, Mexico, one of the vehicles believed used in the abduction has been located. On April 4, 1985,

Rafael Caro-Quintero was arrested by Costa Rican authorities based on information supplied by DEA. He is one of the primary suspects in this matter.

Recently another major suspect in the investigation, Ernesto Fonseca Carrillo was arrested. Nearly 40 defendants in total have already been charged in connection with the Camarena murder or related events. In addition, a second car and a house believed to be used in the abduction and murder have been located and seized.

#### Foreign Government Involvement in Drug Smuggling

##### QUESTION:

Former U.S. Ambassador of Colombia Lewis Tambs and outgoing U.N. Ambassador Jeanne Kirkpatrick have suggested that the cooperation between drug traffickers in Colombia and revolutionary movements may be extensive, involving the governments of Cuba and Nicaragua. Do you have any evidence to suggest such a connection?

##### ANSWER:

Recent developments reveal that certain high-level officials of the Sandinista Nicaraguan Government conspired with Colombian drug traffickers to smuggle cocaine from Nicaragua into the United States. Although we lack conclusive evidence that this drug trafficking had official government sanction, the apparent involvement of some senior officials in a highly centralized form of government suggests at least tacit government approval of the operation.

We do have evidence that certain Cuban officials were involved in the movement of narcotics.

#### Drug Involvement in Texas and Fort Worth

##### QUESTION:

Because the drug interdiction effort in Florida has proven so effective, have you noticed a shifting or rerouting of drug traffic to other points of entry in the United States? Is the State of Texas one of these new points of entry?

##### ANSWER:

Law enforcement drug interdiction activities in South Florida have definitely disrupted the bulk marijuana traffic from Colombia. Currently, mothership activity has fallen off dramatically, with an attendant increase in air smuggling, particularly from Jamaica and the Bahamas. As a consequence of the disruption in the Florida traffic, other states along the Gulf Coast, particularly Texas, have witnessed an increase in marijuana smuggling, especially by aircraft. In the case of Texas, most of the illicit supply of marijuana originates in Mexico, and to a much lesser extent in Belize and Colombia.

The illicit cocaine traffic continues to be focused in South Florida, and has been disrupted to a lesser extent than marijuana. During the last four years, however, Colombian trafficking groups operating from Miami have dispersed multi-kilo level smuggling to other major areas

in the United States. Houston, as well as New York, Los Angeles, New Orleans and Washington, D.C. have been targets of increased multi-kilo shipments from Colombia. This pattern of dispersed smuggling will continue as long as demand for cocaine remains at record levels. During 1984 total cocaine seizures by DEA alone and in cooperation with other agencies totaled 11,742 kilograms as compared to 7,399 kilograms in 1983. Estimated U.S. consumption in 1984 approximated 90,000 - 95,000 kilograms.

QUESTION:

To what extent and in what capacity is the DEA working with local officials of the City of Fort Worth to combat the growing drug problem in the city and surrounding areas?

ANSWER:

DEA routinely participates in joint investigations with police authorities of the City of Fort Worth. DEA provides Special Agents to work in undercover and surveillance assignments, technical equipment, and funds for the purchase of evidence. Of particular importance to combating the drug problems at Fort Worth, DEA provides assistance to local police by making available Special Agents with training and expertise in the investigation of clandestine drug laboratories. Intelligence gathered by DEA relative to local drug traffickers is shared with local authorities.

QUESTION:

What kind of assistance is DEA currently providing to the City of Fort Worth with respect to this problem?

ANSWER:

In addition to working ongoing joint investigations, DEA is in the process, within currently available resources, of establishing a State and Local Task Force at Fort Worth. Letters of Agreement are now being signed with the Cities of Fort Worth, North Richland Hills, Arlington, Bedford, Hurst, Euless and the Tarrant County Sheriff's Office. It is anticipated that officers assigned to the task force will be deputized as Special Deputy United States Marshals.

QUESTION:

In your view, is there a need to provide direct Federal support to the City to deal with this problem?

ANSWER:

This area of the country, in company with a number of other locales, could benefit from a coordinated Federal/State and Local Task Force. There are a number of funding mechanisms available to meet the needs evidenced in the Fort Worth area.

DEA, within its available resources, will provide support, but also receive the benefit of experienced law enforcement assistance from the police departments in the area.

QUESTION:

Should a formal DEA drug task force be established in Fort Worth?

ANSWER:

DEA and the police departments in Fort Worth, North Richlands Hills, Arlington, Bedford, Hurst, and Euless, and the Tarrant County Sheriff's Office are in the process of preparing cooperative agreements to establish a Federal/State and Local Task Force to meet the escalating drug trafficking situation in the area.

## QUESTIONS SUBMITTED BY CONGRESSMAN ROGERS

## DRUG ENFORCEMENT ADMINISTRATION

Designer DrugsQUESTION:

Designer drugs are non-controlled substances, produced synthetically and clandestinely, that are modifications of controlled substances. The Wall Street Journal recently reported that designer drugs are an enforcement nightmare even though new regulatory powers included in last years crime bill were designed to deal with the situation. The regulatory process for banning designer drugs has been shortened to 30 days, but producers are able to alter the composition of drugs to produce new ones in a very short period of time. The story concluded by saying that the continued proliferation of designer drugs could "topple the system of international drug control and render the war on drugs permanently unwinnable". How is DEA attempting to deal with this situation? How much money is being allocated to this effort?

ANSWER:

Although the term "designer drugs" is new, the phenomenon of producing analogs of controlled substances to circumvent the Controlled Substances Act (CSA) is not new (e.g. PCP analogs, hallucinogenic amphetamines, MDA, MDMA, MDMA). The application of this concept to the production of analogs of potent narcotics, however, has occurred only within the past five years.

Currently, the term "designer drugs" refers to analogs of the Schedule II synthetic narcotic analgesics, fentanyl (Sublimaze) and meperidine (Demerol). Since 1980, DEA laboratories have identified six fentanyl analogs which have been associated with at least 90 overdose deaths. The meperidine analog, MPPP, and its by-product, MPTP, were identified by DEA laboratories in 1982. MPTP caused Parkinson's disease in at least seven users in 1982. Both the fentanyl and meperidine analogs appear confined to portions of California and DEA has no evidence that they have spread to other areas of the country.

DEA has used both traditional and the newly enacted emergency scheduling provisions of the CSA to deal with "designer drugs". Alpha-methylfentanyl was placed into Schedule I in September, 1981 while 3-methylfentanyl will be in Schedule I effective April 25, 1985. 3-methylfentanyl is the most potent of the fentanyl analogs and has been associated with a majority of the overdose deaths since 1984. With the control of these substances, as well as fentanyl which is present as an impurity in some of these drugs, DEA will be able to pursue criminal investigations aimed at prosecuting those responsible for the production and distribution of these fentanyl analogs.

If DEA finds that MPPP/MPTP is again available in California, we are prepared to use the emergency scheduling provisions of the CSA to place MPPP in Schedule I. In October 1984, DEA seized a PCP laboratory which was operated by the same individuals who were suspected of producing MPPP/MPTP in 1982.



Although no specific monetary allocations have been made, DEA has devoted significant resources to the identification and scheduling of these substances. Additional resources will be used to pursue investigative efforts aimed at prosecuting the producers and distributors of these substances when appropriate.

The comments in the Wall Street Journal concerning the altering of the composition of the drugs and its impact on both the system of international drug control and the total effort against drug trafficking are purely conjecture at this time. The recently enacted emergency scheduling statute has just been used for the first time and it remains to be seen if traffickers can or will, in fact, negate its impact through rapid recombination of these compounds. At this time, DEA believes that existing legislation and resources are sufficient to address this problem effectively. However, we are constantly monitoring the situation and would be prepared to submit additional legislation if it proves necessary.

#### Protection of Agents

##### QUESTION:

The recent abduction and death of DEA agent Enrique Camarena Salazar raises some very serious questions about the protection of our DEA agents stationed overseas. Are any special steps being taken to provide increased protection? How would you describe the morale of our agents overseas? What would be the effect of providing additional agents?

##### ANSWER:

The special steps being taken to provide increased protection for DEA agents stationed overseas are: increased awareness of terrorism, increased staffing to allow the "partner system" of two agents traveling and working together, and specialized terrorism training for new agents being assigned overseas.

The morale of our agents overseas is higher than it has ever been in the opinion of DEA's staff. The effect of providing additional agents overseas would increase morale and allow for better protection in their environment.

#### South Florida Cocaine Laboratories

##### QUESTION:

There is increased evidence of major cocaine processing laboratories in South Florida. What is the primary reason for this new development, and what special steps are being taken by DEA to locate and shut-down these laboratories?

##### ANSWER:

When Operation Chem Con, a DEA Special Enforcement Operation, was initiated in November 1983, the DEA formulated plans to seek the cooperation of the world's producers of the essential chemicals required to manufacture cocaine -- ether, acetone and potassium permanganate.

One of the objectives of Operation Chem Con was to stop the Latin American cocaine consortium's ability to easily obtain the essential chemicals; we fully expected that this would cause the cocaine networks to move their clandestine laboratories to the chemical source of supply -- namely the United States, France and Germany -- where they would be more vulnerable.

In the Spring of 1984, Operation Chem Con became fully operational. Thusfar, approximately 16,125 fifty-five gallon drums of ether, 6,459 fifty-five gallon drums of acetone and 609 fifty-five gallon drums of hydrochloric acid have been seized in international commerce enroute to clandestine cocaine laboratories in South America. The ether is valued on the wholesale legitimate market at \$6,450,000, and would make 193,500 kilograms of cocaine worth approximately \$6,192,000,000 in the U.S. today.

Because of the seizures of essential chemicals the price of ether has risen from \$1,000 per fifty-five gallon drum one year ago to approximately six to seven thousand dollars in Colombia today, when it can be obtained.

Therefore, predictably in 1984 the cocaine consortiums began to more frequently smuggle their cocaine base into the U.S. in hopes of acquiring the essential chemicals for conversion. However, realizing this was to happen, DEA through Operation Chem Con established liaison with the ether industry, and is closely monitoring all U.S. sales from the manufacturer to the retailer. The results have been an increase in the seizure of cocaine laboratories, and the arrest in the United States of significant members of Latin American cocaine consortiums. With these arrests, will also emerge conspiracy indictments and requests for provisional arrest warrants and extradition for other major violators in Colombia.

#### Military Cooperation

##### QUESTION:

Since the 1982 amendments to the Posse Comitatus statute there are those who would contend that the Navy has provided the bulk of cooperative actions with civilian law enforcement officials. Would you say that this was an accurate analysis? Do you feel that more could be by the other branches?

##### ANSWER:

Insofar as DEA is concerned, all military services provide cooperation in accordance with their mandate. DEA has found the level of cooperation satisfactory.

#### Restrictions an Foreign Arrests

##### QUESTION:

Legislation has been introduced to repeal the restrictions of the Mansfield Amendment on a selective basis. This amendment to the Foreign Assistance Act prohibits officers or agents of the United States from participation in certain foreign arrest actions and

interrogations. Do you believe that total repeal or selective repeal would be advisable? If the amendment were repealed, what additional resources do you feel would be required?

ANSWER:

DEA is currently studying this matter for its impact on our overseas operations. In the near future, we will provide a response.

Drug Interdiction

QUESTION:

It has been well documented that the job of drug interdiction for the U.S. is a massive one, simply as a result of the length of our boundaries and the numerous means of entry--land vehicle, sea vessel, airplane. In an effort to deal effectively with a problem of such magnitude, advanced and expensive radar and other surveillance equipment has been used to stem the illegal flow of drugs by both air and sea transportation. How would you rate the cost efficiency of this type of effort, in terms of current seizure rates and the possibility that drug traffickers will continue to develop alternative means of moving drugs in the U.S.?

ANSWER:

Although narcotics traffickers have consistently sought to circumvent Government interdiction capabilities through the use of new and innovative smuggling techniques, methods of entering the largest quantities of drugs into the U.S. still involve air and sea transportation. The detection and capability created by sophisticated radar and surveillance systems not only provides for positive enforcement action, but also serves as a deterrent to smuggling attempts by traffickers by virtue of their knowledge of the very existence of such systems.

In fact, as law enforcement moves toward an increase in its usage of high-technology against drug smuggling, interdiction capability can be enhanced and the deterrent factor increased.

Marijuana Eradication

QUESTION:

The DEA has been considering plans for the eradication of cannabis from Federal lands. What is the current status of DEA's plans? At this time, what are the most likely alternatives for eradication, given cost, safety, environmental, public health and effectiveness consideration?

ANSWER:

DEA currently plans to support Federal land management agencies to eradicate manually all cannabis plants found on Federal lands in conjunction with state and local law enforcement authorities.

With regard to the second part of the question, DEA, in the short term is utilizing the manual eradication alternative to destroy

cannabis on Federal lands. DEA is in the process of preparing an Environmental Impact Statement (EIS) on the possible environmental and health implications associated with alternate methods of eradicating cannabis on Federal lands. This EIS will thoroughly review, research, and analyze all possible environmental and health effects associated with cannabis eradication. Eradication methods being considered include manual, mechanical, and herbicidal. Until this study is finished, it is premature to state what eradication method or methods DEA will use in its eradication program. The EIS should be finished by July 1985.

#### Offices and Staffing

##### QUESTION:

Please provide a listing of the number of DEA offices and the number of DEA personnel in each state.

##### ANSWER:

The number of DEA offices and planned staffing in each state as of March 31, 1985 follows:

	<u>Office</u>	<u>Staff</u>		<u>Office</u>	<u>Staff</u>
Alabama	2	12	Montana	1	4
Alaska	1	3	Nebraska	1	4
Arizona	4	71	Nevada	2	18
Arkansas	1	8	New Hampshire	1	3
California	11	382	New Jersey	2	66
Colorado	2	50	New Mexico	2	28
Connecticut	2	22	New York	5	410
Delaware	1	3	North Carolina	2	13
District of Columbia	1	70	North Dakota	1	3
Florida	10	317	Ohio	2	28
Georgia	3	66	Oklahoma	2	9
Hawaii	1	16	Oregon	2	16
Idaho	1	4	Pennsylvania	3	92
Illinois	2	144	Rhode Island	1	5
Indiana	2	24	South Carolina	2	14
Iowa	1	5	South Dakota	1	3
Kansas	2	13	Tennessee	3	17
Kentucky	1	6	Texas	14	278
Louisiana	3	78	Utah	1	6
Maine	1	5	Vermont	1	3
Maryland	1	47	Virginia	2	14
Massachusetts	2	75	Washington	3	64
Michigan	3	111	West Virginia	1	6
Minnesota	1	14	Wisconsin	1	8
Mississippi	1	6	Wyoming	1	4
Missouri	1	58			

## QUESTIONS SUBMITTED BY CONGRESSMAN CONTE

## DRUG ENFORCEMENT ADMINISTRATION

QUESTION:

Last night, one of the network news shows had a piece on the negative reaction, according to this report, in Mexico to the strong and highly public stand taken in the U.S. in regard to the recent murder of one of your agents. They showed a young widow of a Mexican drug enforcement agent who was also murdered recently. She expressed bitterness at the relative lack of attention to her husband's killing compared to the posthumous honors paid the U.S. Agent. The network report stated that this was a growing anti-U.S. feeling in Mexico in regard to drug enforcement activities in Mexico. One Mexican citizen stated that the U.S. should work harder on curbing the demand for drugs in the U.S. rather than continuing the drug enforcement activities in Mexico.

I wonder if you would like to comment on this report.

I bring this up because while we have supported, and will continue to support, DEA's Anti-Drug efforts in Mexico and elsewhere, we can also understand to some extent these attitudes on the part of our Mexican neighbors. We need to be very careful and to take every action necessary to insure that our drug enforcement programs are understood and supported by the vast majority of 75 million Mexican citizens or we will have bigger problems than drugs.

ANSWER:

Our sympathies are, of course, with the widow of the fallen Mexican agent, and I am sure that if events were interchanged and a Federal Mexican Drug Enforcement agent were kidnapped and brutally murdered in the United States, then a higher public awareness would have been demonstrated in a similar outpouring of public sympathy.

In regard to the Mexican citizen who feels that we should expend more efforts in our own country, it must be understood that our national strategy is not only one of an enforcement program dedicated to supply reduction in foreign countries, but rather a comprehensive strategy of demand and supply reduction. Our efforts are more steadfast in the enforcement of the law in the United States than they are in programs in Mexico. Drug abuse and trafficking is a global problem that cannot be solved by one approach or by one country. We must attack the problem on all sides to achieve progress.

QUESTION:

Also in regard to this problem of operating drug enforcement programs in other sovereign nations, what kind of coordination and information sharing do you in DEA have with other agencies of the Government, such as the State Department, the Defense Department and the Security Community?

You are in a nasty business, and you have to step on some toes, to put it mildly, to do your job. I just want to know if other agencies with contacts with these other Governments are being kept informed

about your activities so that they might help you in the area of public relations. USIA should be able to be of some help in this regard, too.

ANSWER:

In those foreign countries with a DEA presence, DEA is a functional part of the U.S. Mission and reports to the U.S. Ambassador as do other U.S. agencies. Within each U.S. Mission, the Department of State has assigned one or more officers from the International Narcotics Matters Bureau (INM) or a narcotics coordinating officer.

These individuals work very closely with DEA to ensure full cooperation and coordination among all U.S. Mission elements. Additionally, the DEA Country Attache is in regular contact with USIA, the Defense Attache Officer, State Department Security Officers and other U.S. Mission officers to cooperate with these agencies and share intelligence as appropriate.

DEA Headquarters routinely meets with the headquarters elements of various U.S. intelligence-gathering agencies which work in foreign countries to insure the sharing and coordination of intelligence. DEA also has Memoranda of Understanding with certain of these agencies which specifically address the need to share and coordinate intelligence.

In summary, DEA is very much a part of the United States intelligence-gathering and reporting community and receives the necessary cooperation and coordination from other U.S. Government entities. Each U.S. Ambassador and the various elements within the U.S. Mission are aware of DEA's task and are sensitive to the security concerns that are ever present.

MONDAY, APRIL 1, 1985.

**UNITED STATES ATTORNEYS**

**WITNESSES**

**WILLIAM P. TYSON, DIRECTOR, EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS**

**JOE B. BROWN, UNITED STATES ATTORNEY, MIDDLE DISTRICT OF TENNESSEE**

**ELSIE L. MUNSELL, UNITED STATES ATTORNEY, EASTERN DISTRICT OF VIRGINIA**

**RICHARD L. DeHAAN, DIRECTOR, OFFICE OF ADMINISTRATION AND REVIEW, EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

**THOMAS D. STANTON, DIRECTOR, U.S. TRUSTEES**

**U.S. ATTORNEYS BUDGET REQUEST**

Mr. DWYER. Good afternoon. The first item we shall consider today is the fiscal year 1986 budget request for the United States Attorneys. The fiscal year 1986 request is for \$333,468,000. This amount represents an increase of \$41,384,000 above the amount enacted to date for fiscal year 1985. We shall also consider today the fiscal year 1985 program supplemental of \$17,810,000.

We shall insert at this point in the record the justification material submitted in support of these requests and we are pleased to welcome to the Committee today the Director of the Executive Office for the United States Attorneys, William P. Tyson.

[The justifications follow:]

Department of Justice  
U.S. Attorneys and Marshals  
Estimates for Fiscal Year 1986  
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Legal Activities  
U.S. Attorneys and Marshals  
Summary Statement  
Fiscal Year 1986

For the U.S. Attorneys and Marshals appropriation, a total of 8,130 positions, 8,413 full-time equivalent (FTE) workyears and \$478,057,000 is requested for 1986. This request represents an increase of 389 FTE workyears and \$11,561,000 and a decrease of 167 positions over the 1985 appropriation anticipated. The 1985 appropriation anticipated includes a program supplemental request of 934 positions, 360 FTE workyears and \$25,948,000 to support the Bankruptcy Act Amendments and Federal Judgeships Act of 1984 and the Comprehensive Crime Control Act of 1984; and to fund the 1985 costs associated with the relocation of the U.S. Attorney's Office for the District of Columbia. In addition, the 1985 appropriation anticipated includes a pay request of \$7,787,000 to meet increased pay requirements. The appropriation contains requests for three activities: U.S. Attorneys, U.S. Trustees (Bankruptcy matters), and U.S. Marshals.

U.S. Attorneys

The U.S. Attorneys are responsible for the prosecution of criminal offenses against the United States; the representation of the U.S. Government in civil actions, suits or proceedings in which the United States is concerned; and the initiation of proceedings for the collection of fines, penalties, and forfeitures owed to the United States.

For 1986, the U.S. Attorneys are requesting 5,851 positions, 5,739 FTE workyears and \$333,468,000. The request reflects an increase of 320 FTE workyears and \$16,294,000 over the 1985 appropriation anticipated due to uncontrollable increase and the annualization of the 1985 supplementals. It also includes a program decrease of \$586,000 for the Management and Administration program.

U.S. Trustees

The U.S. Trustees are responsible for the administration of bankruptcy cases in 18 Federal judicial districts. The program was established in 1979 as a pilot effort to fill the void that was created when the Bankruptcy Reform Act of 1978 removed bankruptcy judges from case administration oversight. For 1986, a program decrease of 167 positions, 165 FTE workyears and \$9,378,000 is shown. This decrease represents the Administration's decision to defer funding requests for the U.S. Trustees until the Congress authorizes continuation of the program. Current authority for the program expires on September 30, 1986.

## 595

2

For 1986, the U.S. Marshall Service is requesting 2,579 positions, 2,674 PWS workyears and \$144,589,000. This request represents an increase of 234 PWS workyears and \$4,640,000 over the 1985 appropriation anticipated. Also, the request reflects a program decrease of \$1,506,000 under the Management and Administration program.

Legal Activities  
Salaries and expenses, U.S. Attorneys and Marshals  
Proposed Authorization Language

The U.S. Attorneys and Marshals are requesting the following authorization language:

Annual Legislative Proposal

For the United States Attorneys and Marshals: \$478,057,000.

Permanent Legislative Proposal

The United States Attorneys and Marshals are authorized to make payments from their appropriation for:

- (a) the purchase of firearms and ammunition and the attendance at firearms matches;
- (b) the lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year including acquisition of vehicles seized and forfeited to the U.S. Government for official use;
- (c) the supervision of United States prisoners in non-Federal institutions;
- (d) the bringing to the United States from foreign countries persons charged with crimes;
- (e) the acquisition, lease, maintenance, and operation of aircraft; and
- (f) the payment of rewards and the purchase of evidence and payments for information.

Legal ActivitiesSalaries and expenses, U.S. Attorneys and MarshalsJustification of Proposed Changes in Appropriation Language

The 1985 budget estimates include proposed changes in the appropriation language listed and explained below. New language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses, United States Attorneys and Marshals

For necessary expenses of the offices of the United States attorneys [marshals, and bankruptcy trustees] and marshals; including acquisition, lease, maintenance, and operation of aircraft, [(\$31,118,000)],

\$178,057,000

(12 U.S.C. 1904b; 18 U.S.C. 501, 2053, 2059, 3192, 4008; 18 U.S.C., Proc. 3481 nt; 19 U.S.C. 1619; 21 U.S.C. 886; 28 U.S.C. 510-16, 519, 521-25, 541-50, 561-62, 562, 567-68; 18 U.S.C. 1224, 1617, 1694; Department of Justice and Related Agencies Appropriation Act, 1985) additional authorization legislation to be proposed.

Explanation of Change

The intent of the Congress in enacting the 1985 appropriation was to agree with a House insertion that provided for "marshals and bankruptcy trustees" but which did delete the reference to the U.S. Marshals Service already included. All versions of the bill mistakenly gave double reference to the U.S. Marshals. The proposed language would again delete the bankruptcy trustees.

Legal Activities

Salaries and expenses, U.S. Attorneys and Marshals

Comparison of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request		1985 Congressional Appropriation		1985 Supplementals Requested		1985 Proposed Revisions		1985 Appropriation Anticipated	
	Pos.	Am.	Pos.	Am.	Pos.	Am.	Pos.	Am.	Pos.	Am.
U.S. attorneys.....	5,365	5,254	4,902	154	-74	-47,915	...	...	5,851	5,419
Bankruptcy matters.....	...	...	...	...	167	165	9,230	...	167	165
U.S. marshals.....	2,161	2,269	128,303	44	31	1,678	...	...	2,279	2,440
Total.....	7,526	7,523	430,457	137	121	3,193	...	...	8,597	8,024

Explanation of Changes from 1985 Appropriation Request

Congressional Appropriation Actions

The Congressional action for the U.S. Attorneys and Marshals appropriation consists largely of reducing \$3,079,000 from the uncontrollable increases requested for Standard Level User Charges (SLUC), \$2,295,000 from the 1985 amendment requested for the U.S. Attorney's Office relocation in the District of Columbia, and 76 positions and \$3,913,000 from the 1985 program increase requested by the President; adding 167 positions and \$9,353,000 for the U.S. Marshals (minus a decrease of \$123,000 for SLUC, included above), and 54 positions and \$3,000,000 for the U.S. Marshals; and allowing transfers of \$407,000 to the U.S. Marshals Service, and of 8 positions and \$280,000 to the Administrative Office of U.S. Courts from the U.S. Marshals for the administration of the Court Security Officers program and SLUC costs for courtroom holding cells.

Supplementals Requested

1. The program supplemental will enable the U.S. Attorneys to provide 398 positions, 109 PTE workyears and \$12,945,000 to support the 85 new Federal Judgeships under the Bankruptcy Amendments and Federal Judgeships Act of 1984; to provide 162 positions, 41 PTE workyears and \$1,800,000 to implement the Comprehensive Crime Control Act of 1984; and to fund the 1985 costs associated with the relocation of the U.S. Attorney's Office in the District of Columbia (\$3,065,000).

In addition, the supplemental will provide the U.S. Marshals Service with 59 positions, 30 FTE workyears and \$1,516,000 to support the Bankruptcy Act Amendments and Federal Judgeships Act of 1984; and 315 positions, 110 FTE workyears and \$6,622,000 to support the Comprehensive Crime Control Act of 1984.

Of the \$25,948,000 designated for the program supplemental, \$12,226,000 is to be derived by transfer of unobligated balances earmarked for the Juvenile Justice and Delinquency Prevention program and \$3,890,000 is to be derived by transfer from General Administration, "salaries and expenses."

2. The pay supplemental of \$7,787,000 includes \$5,477,000 for the U.S. Attorneys, \$2,146,000 for the U.S. Marshals and \$164,000 for the U.S. Trustees.

#### Proposed Rescissions

In accordance with section 201 of the Deficit Reduction Act, \$889,000 is proposed for rescissions in the areas of travel, transportation of things, printing and other services.

Legal Activities  
Salaries and expenses, U.S. Attorneys and Marshals  
Summary of Requirements  
(Dollars in thousands)

	Perm.	Total	Amount
	Pos.	Pos.	
Adjustment to base:			
1985 as enacted.....	7,613	7,606	\$431,114
1985 funding provided in 1984 Second Supplemental.....	50	38	2,536
Total enacted.....	7,663	7,644	\$433,650
Supplementals requested:			
1985 Pay supplemental requested.....	934	380	7,787
1985 Program supplemental requested.....	8,597	8,024	25,948
Proposed Resolution.....	...	...	...
1985 Appropriation Anticipated.....	...	8,597	485,196
Savings resulting from management initiatives.....	...	...	-10,695
Uncontrollable increases.....	...	594	36,032
Decreases (automatic non-policy).....	...	...	-2,496
1986 base.....	8,597	8,578	\$489,537

	1984 Enacted		1984 Actual		1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.
Estimates by budget activity												
1. U.S. attorneys.....	4,753	4,731	\$253,718	4,753	4,638	\$250,945	5,851	5,419	\$317,174	5,851	5,739	\$333,468
2. Bankruptcy matters.....	167	165	8,226	167	173	8,097	167	165	9,373	167	165	9,378
3. U.S. marshals.....	2,132	2,233	122,682	2,132	2,270	121,205	2,579	2,440	139,949	2,579	2,674	141,589
Total.....	7,052	7,129	384,626	7,052	7,081	380,247	8,597	8,024	\$466,496	8,597	8,430	\$478,057
Reimbursable Workyears.....	379				377		54			54		
Total PM ceiling.....	7,508				7,458		8,732		8,767		...	...
Other Workyears:												
Holiday & overtime.....	332				389		374		374		...	...
Total compensable workyears.....	7,847				7,757		9,006		8,841		...	...



Legal Activities  
Salaries and expenses, U.S. Attorneys and Marshals  
Summary of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984		1985		1986	
	Authorized	Authorized	Proposed Supplemental	Program Changes	Total	
Attorneys (905).....	2,224	2,463	236	-18	2,681	
Paralegal Specialists (950).....	275	291	45	-36	300	
U.S. Trustees or Assistant U.S. Trustees (301).....	20	20	...	-20	...	
Bankruptcy Analysts (301).....	22	22	...	-22	...	
Other Miscellaneous Occupations (001-009).....	4	4	...	...	4	
Criminal Investigative Series (1811).....	622	626	1	...	627	
U.S. Marshals (082).....	991	1,062	281	...	1,343	
Other Legal and Kindred (905-998).....	926	1,030	...	-47	983	
Social Sciences, Economics and Kindred (100-199).....	3	3	...	-1	2	
Personnel Management (200-299).....	52	52	...	...	52	
General Admin., Clerical and Office Service (300-399).....	1,730	1,913	284	-22	2,175	
Accounting and Budget (500-599).....	133	133	45	-1	177	
Engineering and Architecture Group (800-899).....	2	2	...	...	2	
Information and Arts Group (1000-1099).....	2	2	...	...	2	
Business and Industry Group (1100-1199).....	20	14	2	...	16	
Library and Archives Group (1400-1499).....	8	8	...	...	8	
Equipment, Facilities and Service Group (1600-1699).....	1	1	...	...	1	
Education Group (1700-1799).....	1	1	...	...	1	
Supply Group (2000-2099).....	16	16	40	...	56	
Total.....	7,052	7,663	934	-167	8,430	
Washington.....	282	284	10	-18	276	
U.S. Field.....	6,769	7,378	924	-149	8,153	
Foreign Field.....	1	1	...	...	1	
Total.....	7,052	7,663	934	-167	8,430	

Legal Activities  
Salaries and expenses, U.S. Attorneys and Marshals  
Summary of Adjustments to Base  
(Dollars in thousands)

	Perma. Pos.	Work- years	Amount
1985 as enacted.....			
1985 funding provided in 1984 Second Supplemental.....	7,613	7,606	\$431,114
Total enacted.....	7,613	7,606	\$431,114
Supplementals requested:			
Pay increase supplemental.....	59	38	2,536
Increased pay costs.....	7,683	7,684	433,650
Retirement contributions - Social Security (FICA).....			
Amount absorbed.....			-175
Net pay supplemental.....			7,187
Program supplementals requested:			
Relocation of U.S. Attorney's Office in District of Columbia.....	...	...	3,065
Support for new Federal Judgeships.....	457	229	14,461
Comprehensive Crime Control Act of 1984.....	477	151	8,422
Proposed Reallocation.....	...	...	-889
1985 appropriation anticipated.....	8,597	8,024	466,496
Adjustments to Base:			
Savings resulting from management initiatives (5 percent pay reduction).....	...	...	-10,695
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....	...	...	695
Annualization of 1985 pay increases.....	...	...	2,829
Annualization of 1,171 additional positions approved/requested in 1985.....	...	554	21,063
Administrative salary increases.....	...	...	5,643
Within-grade increases.....	...	...	1,243
Health benefits costs.....	...	...	599
Federal Employees Compensation Act (FECA).....	...	...	292
Government Printing Office (GPO) printing costs.....	...	...	78
General Services Administration (GSA) reimbursable services.....	...	...	78
Federal Telecommunications System (FTS).....	...	...	1,045
Departmental Telecommunications.....	...	...	5
Automated legal research and litigation support services.....	...	...	134
General pricing level adjustment.....	...	...	2,374
Foreign allowances.....	...	...	4
Total, uncontrollable increases.....	...	554	36,032
Decreases:			
Rate decrease for full-field investigations.....	...	...	-135
Relocation of U.S. Attorney's Office in District of Columbia.....	...	...	-450
Relocation of U.S. Attorney's Office in District of Columbia.....	...	...	-1,645
Federal Employees Compensation Act (FECA) - employment benefits.....	...	...	-69
Total, decreases.....	...	...	-2,299
1986 Base.....	8,597	8,578	489,537

Legal Activities  
Salaries and expenses, U.S. Attorneys and Marshals  
Justification of Adjustments to Base  
(Dollars in thousands)

	Perm. Pos.	Total FTE	Budget Auth.
<u>Savings resulting from management initiatives</u> .....	...	...	-\$10,695
Five Percent Pay Reduction. Savings of \$10,695,000 will be realized as a result of the proposed 5 percent pay reduction in salaries for civilian federal employees.			
<u>Uncontrollable Increases:</u>			
1. Restoration of reduction for change in hourly rate.....	...	...	645
Section 310(b)(1) of the Omnibus Reconciliation Act of 1982 required that the 1984 and 1985 pay be computed on the basis of 2,087 workhours. These funds were withdrawn from the 1984 budget. For 1986, the basis for computing pay reverts to 2,080 workhours and restoration of the \$645,000 reduced in 1984 is required to fund the change in the hourly rate.			
2. Additional annualization of 1985 pay increase.....	...	...	2,829
This provides for the annualization of the January 6, 1985 pay increase contained in Executive Order 12496, dated December 28, 1984. There are 261 compensable days in 1985 and 70 paid days (October 1, 1984 through January 5, 1985) that were not included in the pay raise amount of \$7,767,000. Additionally, \$175,000 of the request was absorbed. The calculation of the amount required for annualization is:			
70/261 x annual amount of pay raise.....			\$2,654
1985 absorption of pay.....			175
Total annualization.....			2,829

Perm. Total Budget  
Pos. FTE Auth.

3. Annualization of additional positions approved in 1985..... 554 \$21,063  
This provides for the annualization of 1,171 additional positions approved or requested  
for 1985.

	Requested 1985 Increases	Annualization Required
Annual salary rate of 187 positions approved for 1985.....	\$4,388	...
Less lapse (10%).....	-427	\$427
Net Compensation.....	3,961	427
Associated employee benefits.....	479	48
Total costs subject to annualization.....	4,440	475
Annual salary rate of 50 positions approved in 1984		
Supplemental.....	1,503	...
Less lapse (24%).....	-363	363
Net Compensation.....	1,140	363
Associated employee benefits.....	130	51
Total costs subject to annualization.....	1,270	414
Annual salary rate of 934 positions requested in 1985		
Supplemental.....	25,973	...
Less lapse (75%).....	-15,218	15,218
Other than permanent.....	...	47
Net Compensation.....	10,755	15,265
Associated employee benefits.....	1,237	1,830
Travel and transportation of persons.....	538	461
Transportation of things.....	72	65
Standard Level User Charges.....	1,824	207
Communications, utilities and other rent.....	1,252	482
Printing and reproduction.....	184	151
Other services.....	1,705	851
Supplies and materials.....	179	159
Equipment.....	635	703
Total costs subject to annualization.....	18,381	20,174

	Perm. Pos.	Total PTS	Budget Auth.
4. Administrative salary increases..... Assistant U.S. Attorneys occupying ungraded permanent positions are, under certain circumstances, granted successive annual pay increases at varying rates until a maximum level is reached.	...	...	\$5,643
5. Within-grade increases..... This request provides for the increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$1,119,820 and benefits \$123,180 = \$1,243,000).	...	...	1,243
6. Health Benefits costs..... The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective the first pay period after January 1, 1984, actual contributions to health insurance increased approximately 11 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$599,000 provides funds for increased costs from pay period No. 2 (\$210,516) to pay period No. 3 (\$233,540) projected for 26 pay periods.	...	...	599
7. Federal Employees' Compensation Act (FECA) - Workers' Compensation..... This increase reflects the billing provided by the Department of Labor for the actual costs in 1984 of employees' accident compensation. The 1986 amount will be \$2,015,000 or \$292,000 over the 1985 base.	...	...	292
8. Government Printing Office (GPO) printing costs..... The GPO is currently projecting a 5 percent increase over the 1985 printing costs of \$2,525,000. An additional \$78,000 will be required in 1986.	...	...	78
9. General Services Administration (GSA) recurring reimbursable services..... Reimbursable payments are made to the GSA for heating, ventilation and air conditioning provided in excess of normal working hours and for guard service. GSA has estimated a 5 percent increase over 1985 charges.	...	...	78
10. Federal Telecommunications System (FTS)..... The FTS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1985, the uncontrollable increase will be \$1,045,000 over the 1985 base of \$5,309,000.	...	...	1,045

	Perm. Pos.	Total PTS	Budget Auth.
11. Department telecommunications..... Expenses for equipment, installation and commercial tolls (to include message units and directory assistance) have increased dramatically since April, 1984. An increase was not requested for 1985 due to the uncertainty surrounding the industry restructuring and deregulation. Annualization of the current level of billing indicates that 1985 expenses will be approximately 18 percent higher than 1984 estimated expenses, requiring an uncontrollable increase of \$5,000.	...	...	\$5
12. Automated legal research and litigation support services..... Centralized JURIS litigation support, and case management services are available for all departmental organizations through the Working Capital Fund (WCF). The WCF is projecting an increase of 5 percent over the 1985 costs of \$2,682,000.	...	...	134
13. General pricing level adjustment..... This request applied OMB pricing guidance of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1986 estimates.	...	...	2,374
14. Foreign allowances..... Allowance for Government employees in foreign areas are determined by the Department of State. The State Department anticipates a 11.4 percent increase in 1986. The requested increase of \$4,000 provides 11.4 percent more than the \$36,000 budgeted for 1985.	...	...	4
Total, uncontrollable increases.....	...	554	36,032

Decreases (Automatic non-policy):			
	Perm. Pos.	Total FTE	Budget Auth.
1. Rate decrease for full-field investigations.....	...	...	-\$135
The Office of Personnel Management (OPM) has notified users of a \$175 reduction below the FY 1984 base cost of \$1,550 charged for each full-field investigation. The uncontrollable decrease is calculated on average accession of 386 persons per year for a total reduction of \$135,000.			
2. Equipment for new positions.....	...	...	-450
3. One-time costs associated with relocation of U.S. Attorney's Office for District of Columbia....	...	...	-1,645
4. Federal Employees' Compensation Act (FECA) - employment benefits.....	...	...	-66
No increase for unemployment compensation is expected in 1986. However, there will be a redistribution of estimates based on actual benefits paid in a representative fiscal period. This redistribution will decrease the 1985 change of \$180,000 to \$114,000.			
Total, non-policy decreases.....	...	...	-2,296
Total, adjustments to base.....	...	554	23,041

## Legal Activities

## Salaries and expenses, U.S. Attorneys and Marshals

Financial Analysis - Program Changes  
(Dollars in thousands)

Item	U.S. Attorneys		U.S. Trustees		U.S. Marshals		Total	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
<b>Grades</b>								
ES-5.....	-1	-471					-1	-471
GS/04-15.....	-3	-165					-3	-165
GS/04-14.....	-10	-499					-10	-499
GS/04-13.....	-23	-933					-23	-933
GS-12.....	-5	-172					-5	-172
GS-11.....	-9	-261					-9	-261
GS-9.....	-32	-814					-32	-814
GS-8.....	-22	-479					-22	-479
GS-7.....	-21	-419					-21	-419
GS-6.....	-14	-282					-14	-282
GS-5.....	-7	-111					-7	-111
Ungraded positions.....	-20	-1,162					-20	-1,162
	...	-4237					...	-4237
<b>Positions and annual rate.....</b>								
Lapse (-).....	-167	-5,368					-167	-5,368
Permanent workyears and comp.....	6	197					6	197
Other than permanent.....	-161	-5,171					-161	-5,171
Other personnel compensation.....	-4	-227					-4	-227
Total workyears and compensation.....	...	...	...	...	...	...	...	...
Benefits to former personnel.....	-165	-5,167					-165	-5,167
Personnel benefits.....	-4	-14					-4	-14
Travel and transportation of persons.....	-20	-569					-20	-569
Transportation of things.....	-33	-366					-33	-366
Standard level user charges.....	-1	-33					-1	-33
Comm. utilities and other rent.....	-32	-1,358					-32	-1,358
Printing and reproduction.....	-140	-595					-140	-595
Other services.....	-32	-51					-32	-51
Supplies and materials.....	-76	-553					-76	-553
Equipment.....	-6	-160					-6	-160
	-19	-232					-19	-232
<b>Total.....</b>	...	-596	-165	-9,378	...	-1,506	-165	-11,480



## Legal Activities

## Salaries and expenses, U.S. Attorneys and Marshals

Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Grades and salary ranges	1985 Estimate		1986 Estimate		Increase/Decrease	
	Positions & Workyears	Amount	Positions & Workyears	Amount	Positions & Workyears	Amount
Executive Level IV, \$72,300.....	4		4		...	...
Executive Level V, \$68,700.....	1		...		-1	
ES-6, \$72,300.....	2		2		...	...
ES-5, \$70,500.....	1		1		...	...
ES-4, \$68,700.....	4		4		...	...
ES-3, \$66,232.....	1		1		...	...
ES-2, \$63,764.....	3		3		...	...
GS/MA-15, \$52,262 - \$67,940.....	61		58		-3	
GS/MA-14, \$44,430 - \$57,759.....	124		114		-10	
GS/MA-13, \$37,599 - \$48,876.....	188		125		-23	
GS-12, \$31,619 - \$41,105.....	232		227		-5	
GS-11, \$26,381 - \$34,292.....	940		931		-9	
GS-10, \$24,011 - \$31,211.....	15		15		...	...
GS-9, \$21,804 - \$28,347.....	1,107		1,075		-32	
GS-8, \$19,740 - \$25,662.....	265		243		-22	
GS-7, \$17,824 - \$23,170.....	814		793		-21	
GS-6, \$16,040 - \$20,855.....	1,115		1,101		-14	
GS-5, \$14,390 - \$18,710.....	719		712		-7	
GS-4, \$12,862 - \$16,723.....	278		278		...	...
GS-3, \$11,558 - \$14,896.....	61		61		...	...
GS-2, \$10,501 - \$13,216.....	6		6		...	...
Ungraded positions.....	2,696		2,676		-20	
Total, appropriated positions.....	8,157	\$271,317	8,130	\$265,285	-167	-\$5,132
Pay above stated annual rate.....	...	1,044	...	1,024	...	-20
Lapses.....	-971	-22,735	-411	-11,023	560	11,712
Net savings due to lower pay scales for part of year.....	...	-2,654	...	...	...	2,654
Net full-time permanent.....	7,626	247,072	8,019	255,286	393	9,214
Average ES Salary.....		(\$67,784)		(\$64,395)		
Average GS/MA Salary.....		(\$19,850)		(\$18,850)		
Average GS/MA Grade.....		(8.1)		(8.1)		

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Loyal Activities

Salaries and expenses, U.S. Attorneys and Marshals

Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Object Class	1985 Estimate*		1986 Estimate		Increase/Decrease Workyears/Amount
	Workyears	Amount	Workyears	Amount	
11 Personnel compensation:					
11.1 Permanent positions.....	7,626	\$247,072	8,019	\$256,286	393 \$9,214
11.3 Positions other than permanent.....	398	13,008	394	12,906	-4 -102
11.5 Other personnel compensation.....	360	12,930	360	12,612	... -318
11.8 Special personnel services payments...	...	2,402	...	2,400	... -2
Total.....	8,384	275,412	8,773	284,204	389 8,792
Other objects:					
12.1 Personnel benefits.....	32,941		34,772		1,831
13 Benefits for former personnel.....	22,736		23,268		532
21 Travel and transportation of persons..	1,433		1,499		66
22 Transportation of things.....	41,512		40,047		-1,465
23.1 Standard level user charges.....	28,947		30,219		1,272
23.2 Communications, utilities and other rent.....	2,974		3,227		253
24 Printing and reproduction.....	45,051		45,269		218
25 Other services.....	5,288		4,950		-338
26 Supplies and materials.....	10,058		10,496		438
31 Equipment.....	13		13		...
42 Insurance claims and indemnities.....					
Total, obligations.....	8,384	466,496	8,773	478,057	389 11,561
Relation of obligations to outlays:					
Obligated balance, start-of-year.....		27,877		33,429	
Obligated balance, end-of-year.....		-33,429		-41,571	
Outlays.....		460,944		469,915	

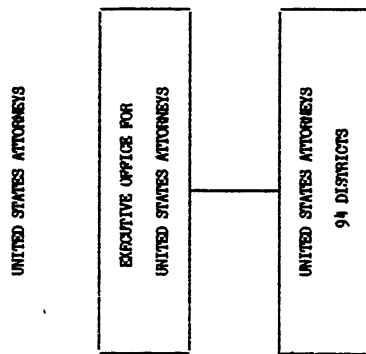
\*The distribution has been revised since the printing of the appendix to the President's budget.

Legal Activities  
Salaries and expenses, U.S. Attorneys and Marshals  
Consulting and Related Services  
(Dollars in thousands)

	<u>1984</u> <u>Actual</u>	<u>1985</u> <u>Estimate</u>	<u>1986</u> <u>Estimate</u>
Consulting Services.....	\$31	\$27	...
Management and Professional Services.....	...	...	...
Special Studies and Analysis.....	...	...	...
Total.....	31	27	...

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Consulting and related services are used by the U.S. Trustees only for services which cannot be performed in-house. Services are requested to support efforts to develop the U.S. Trustees' automated case management system program. No increases are requested in 1986.



United States Attorneys  
Salaries and expenses, U.S. Attorneys and Marshals  
Grosswalk of 1985 Charges  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request		Congressional Appropriation Actions on		1985 Supplementals Requested		1985 Processed		1985 Appropriation	
	Pos.	Am.	Pos.	Am.	Pos.	Am.	Pos.	Am.	Pos.	Am.
1. Federal Appellate .....	351	341	...	-437	...	...	...	...	351	341
2. Criminal Litigation .....	2,719	2,639	-47	-1,859	...	...	...	...	3,079	2,753
3. Civil Litigation .....	1,759	1,717	...	-676	-5	-4315	112	166	1,901	1,185
4. Legal Education .....	27	25	-2	-1	...	-6	148	74	25	24
5. Organized Crime Drug Enforcement .....	367	350	...	-187	...	...	...	...	367	350
6. Management and Administration .....	142	182	-25	-27	...	...	...	...	142	182
Total .....	5,365	5,254	-74	-75	...	...	560	240	5,851	5,419

Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Actions

In its action on the President's 1985 budget request for the U.S. Attorneys, as amended, the Congress applied reductions totaling 105 positions, 98 full-time equivalent (FTE) workyears and \$10,070,000. Because of the late transmittal of the request, the Congress was unable to include in the 1985 Bill, the amendment for support of the District of Columbia (D.C.) Superior Court and to relocate the D.C. U.S. Attorney's Office (31 positions, 23 FTE workyears and \$1,450,000). In other actions, the Congress cut a portion of the increased funds budgeted for standard level user charges (\$2,001,000) and several staffing increases with associated funding (74 positions, 75 FTE workyears and \$3,619,000). However, the Congress funded part of the 1985 requirements (31 positions, 23 FTE workyears and \$2,155,000) through the Second 1984 Supplemental Appropriation Act (P.L. 98-596) by making these funds available through September 30, 1985. These actions resulted in a net 1985 reduction of 74 positions, 75 FTE workyears and \$7,915,000 as reflected above.

Reprogramming

The reprogramming action provides for a reallocation of resources from the litigation programs to Management and Administration. The reprogramming will allow the U.S. Attorneys to realign the staffing levels to meet their actual needs. A notification was transmitted to the Office of Management and Budget on September 4, 1984.

#### Supplemental Requested

Supplemental funds are requested for funding of the U.S. Attorneys. The supplemental will enable the U.S. Attorneys to:

- 1) provide 398 attorney and clerical positions, 199 FTS workyears and \$12,945,000 to support the 85 new Federal Judgeships under the Bankruptcy Amendments and Federal Judgeship Act of 1984;
- 2) provide \$3,065,000 to complete the relocation and consolidation of the U.S. Attorney's Office for the District of Columbia. The funding request includes funding to cover the rental costs over two-thirds of the fiscal year for 25,000 square feet acquired for the U.S. District Court relocation and the cost associated with acquiring the addition of 100,000 square feet for the U.S. Superior Court relocation in 1985;
- 3) provide 162 positions, 41 FTS workyears and \$1,800,000 in response to the Comprehensive Crime Control Act (CRA) of 1984, approved as Title II of House Joint Resolution 648.

#### Proposed Resolutions

In accordance with section 2901 of the Deficit Reduction Act, \$352,000 is proposed for resolutions in the areas of travel, transportation of things and printing.

**Adjustments to Base:**

	Form.	Work- years	Amount
	Fed.		
1985 enacted.....	5,260	5,156	\$292,084
1985 funding provided in 1984 second supplemental.....	31	31	2,195
Total enacted.....	5,291	5,179	294,239
Supplementals requested:			
1985 Pay supplemental requested.....	560	240	5,477
1985 Program supplemental requested.....	560	240	17,810
Proposed Reaction.....	1,120	480	392
1985 appropriation anticipated.....	5,851	5,419	317,174
Savings resulting from management initiatives.....	...	...	-7,450
Uncontrollable increases.....	...	320	26,513
Decreases.....	...	...	-2,173
1986 base.....	5,851	5,739	334,064
1986 base.....	5,851	5,739	334,064

Estimates by budget activity	1984 Enacted			1984 Actual			1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease			
	Perm. Pos.	NY Pos.	Ant.	Perm. Pos.	NY Pos.	Ant.	Perm. Pos.	NY Pos.	Ant.	Perm. Pos.	NY Pos.	Ant.	Perm. Pos.	NY Pos.	Ant.	Perm. Pos.	NY Pos.	Ant.	
U.S. Attorneys	4,753	4,731	\$253,718	4,753	4,638	\$250,945	5,851	5,419	\$317,174	5,851	5,739	\$334,004	5,851	5,739	\$333,468	...	...	...	-\$496

U.S. Attorneys  
Salaries and expenses, U.S. Attorneys and Marshals

Summary of Adjustments to Base  
(Dollars in thousands)

	Perm. Pos.	Work- Years	Amount
1985 as enacted.....	5,260	5,156	\$292,084
1985 funding provided in 1984 second supplemental.....	31	23	2,155
Total enactment.....	5,291	5,179	294,239
 Supplementals requested:			
Pay increase supplement requested:			Amount
Increased pay costs.....			\$5,557
Savings in administrative travel.....			-80
Net pay supplemental.....			5,477
Program supplementals requested:			
Relocation and renovation of U.S. Attorney's Office for the District of Columbia...	...	...	3,065
Implementation of the Comprehensive Crime Control Act.....	162	41	1,800
Support for new federal judgeships.....	398	199	12,945
Proposed reversion.....			-352
1985 appropriation anticipated.....	5,851	5,419	317,176
Savings resulting from management initiatives (3 percent pay reduction).....			-7,450
 Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....			471
Annualization of 1985 pay increase.....			1,932
Annualization of 709 additional positions approved in 1985.....		320	14,653
Administrative salary increases.....			5,595
Within-grade increases.....			557
Health benefits costs.....			394
Federal Employee's Compensation Act (FECA) - Worker's Compensation.....			175
GPO printing costs.....			66
GSA recurring reimbursable services.....			61
Federal Telecommunication System (FIS) rate increase.....			691
Automated legal research and litigation support services.....			129
General pricing level adjustment.....			1,789
Total, uncontrollable increases.....		320	26,513
 Decreases:			
Rate decrease for full-field investigations.....			-78
Non-recurring costs associated with office relocation.....			-1,645
Non-recurring costs for equipment.....			-450
Total, decreases.....			-2,173
1986 Base.....	5,851	5,739	334,064



## Salaries and expenses, U.S. Attorneys and Marshals

Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1984 as Practiced			1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Federal Appellate.....	351	381	\$18,125	372	325	\$17,546	351	381	\$19,689	...	...	...	...	...	...	...	...	...
Criminal Litigation.....	2,876	2,899	118,768	2,519	2,458	112,821	3,079	2,753	163,911	3,135	2,739	\$190,231	3,126	3,239	\$190,231	...	...	...
Civil Litigation.....	1,673	1,706	82,928	1,718	1,693	82,812	1,901	1,725	94,976	2,005	1,960	104,682	2,005	1,960	104,682	...	...	...
Legal Education.....	25	24	3,223	25	23	2,694	25	24	2,595	25	24	2,693	25	24	2,693	...	...	...
Organized Crime Drug Enforcement.....	128	161	14,682	133	132	15,056	367	350	20,394	367	350	20,595	367	350	20,595	...	...	...
Management and Admin....	...	...	...	...	...	...	128	166	15,609	128	166	15,733	128	166	15,197	...	...	-436
Total.....	4,753	4,731	253,718	4,753	4,638	250,945	5,851	5,419	317,174	5,851	5,739	334,064	5,851	5,739	333,468	...	...	-596
Reimbursable Workyears	326	...	...	292	...	...	5,419	...	...	5,419	...	...	5,419	...	...	...	...	...
Total PPS Ceiling.....	5,757	...	...	4,930	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Other Workyears	1	...	...	1	...	...	1	...	...	1	...	...	1	...	...	...	...	...
Holiday.....	21	...	...	32	...	...	32	...	...	32	...	...	32	...	...	...	...	...
Overtime.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total compensable workyears.....	5,079	...	...	4,963	...	...	5,452	...	...	5,772	...	...	5,772	...	...	...	...	...

\* A reprogramming to transfer \$686,000 to Legal Education program from other programs was requested in 1984 in anticipation of a requirement to conduct several unplanned conferences. The additional costs, however, were never realized. The actual expenses incurred were much closer to the original estimate of \$2,537,000.

United States Attorneys  
Salaries and expenses, U.S. Attorneys and Marshals

Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity: United States Attorneys	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT
Federal Appellate.....	351	341	\$19,689	...	...	...	...	...	...	...	...
Criminal Litigation.....	3,079	2,753	163,911	3,326	3,239	\$190,291	3,326	3,239	\$190,291	...	...
Civil Litigation.....	1,901	1,785	94,926	2,005	1,960	104,692	2,005	1,960	104,692	...	...
Legal Education.....	25	24	2,595	25	24	2,693	25	24	2,693	...	...
Organized Crime Drug Enforcement.....	367	350	20,394	367	350	20,595	367	350	20,595	...	...
Management and Administration..	128	166	15,609	128	166	15,793	128	166	15,793	...	...
Total.....	5,851	5,419	317,176	5,851	5,739	334,064	5,851	5,739	333,468	...	...

This activity includes resources for the representation of the United States in 94 federal judicial districts contained within the jurisdiction of the United States. Within each judicial district, the U.S. Attorney is responsible for the prosecution of criminal offenses against the United States and for the conduct of all civil actions, lawsuits or proceedings in which the United States is involved.

Activity: United States Attorneys	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT	Amount	Pos.	WT
Federal Appellate .....	351	341	\$19,689	...	...	...	...	...	...	...	...

The Federal Appellate program will be reflected under the Criminal Litigation and Civil Litigation programs beginning in 1986. It will no longer be a separate program since the Federal Appellate program is not a separate function in the vast majority of U.S. Attorneys' offices. The Office of Management and Budget approved this change on July 23, 1984.

	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.
		WT		WT		WT		WT
		Amount		Amount		Amount		Amount
Criminal Litigation.....	3,079	2,753 \$163,911	3,326	3,239 \$190,291	3,326	3,239 \$190,291	...	...

Long Range Goal: To promote compliance with the laws of the United States by individuals within its jurisdiction.

Major Objective: This program is dedicated to the effective identification, investigation, prosecution, and conviction of those persons and legal entities who have committed offenses against the laws of the United States.

Base Program Description: The Federal law provides criminal penalties for a wide range of proscribed behavior. Many of these laws are designed to protect the integrity of government operations -- e.g., laws regarding counterfeiting, tax evasion, perjury and fraud against the U.S. Government, while others protect important social institutions and citizen safety -- e.g., laws regarding financial practices, interstate commerce and kidnapping. Obtaining convictions against the violators of federal criminal law is intended not only to punish individual offenders, but to deter prospective criminal behavior and to reinforce general respect for the efficacy of law.

Most alleged violators of federal criminal laws are reported to the U.S. Attorneys by one of the several federal investigative agencies. A few violators are reported to U.S. Attorneys by citizens, and others come to the attention of U.S. Attorneys in the course of prosecuting related criminal conduct. After considering such factors as the sufficiency of available evidence, the condition of the prospective defendant, the applicability of Department of Justice priorities, and the availability of alternatives to federal prosecution, a decision is reached on the appropriateness of federal prosecution. U.S. Attorneys then become responsible for engaging in the established legal procedures for the purpose of obtaining a guilty judgment of alleged violators of federal crime laws, with the ultimate purpose of invoking against such violators the penalties provided by law.

Except for misdemeanor offenses and in instances in which the defendant waives his right to a grand jury indictment, the evidence against an alleged offender is presented to a grand jury, and the jurors make the final decision for prosecution by voting on an indictment proposed by the U.S. Attorney. Following the delivery of an indictment, the U.S. Attorney is responsible for presenting the charges at the arraignment of the defendant and for participating in preliminary hearings concerning such issues as defendant's bail status, the propriety of the indictment, the forfeiture of the defendant's property, the competency of the defendant, and the admissibility of evidence. In addition to the formal proceedings at which U.S. Attorneys represent the U.S. Government, they are constantly negotiating with defense counsel, witnesses, court officials, and investigators to keep the case progressing within the statutorily defined limits for speedy trial. Although barely ten percent of all criminal prosecutions are concluded by a trial, the U.S. Attorneys always must be prepared to go to trial to avoid the risk of dismissal for noncompliance with Speedy Trial Act time limits and to negotiate effectively with defense counsel for a guilty plea by the defendant. Whenever the defendant is unwilling to admit guilt and a trial becomes necessary, the U.S. Attorneys then are responsible for presenting the factual evidence which will convince the jury of the defendant's guilt and for advocating legal arguments.

To support the Comprehensive Crime Control Act (CCCA), approved as Title II of House Joint Resolution 648, the U.S. Attorneys require an additional \$1,879,000 to fund 162 positions and 41 FTE workyears in 1985. These positions will be needed to support various Chapters within the Act, including sentencing reform, forfeitures, fines reform and other measures impacting serious nonviolent crimes.

Also included in the Criminal Litigation program are 250 positions, 125 workyears and \$8,127,000 to support the 85 new judgeships under the Bankruptcy Amendments and Federal Judgeship Act of 1984 (P.L. 98-353); and \$3,085,000 to fund the 1985 cost associated with the relocation of the U.S. Attorney's office in the District of Columbia.

Accomplishments and Workload: The criminal litigation workload of the U.S. Attorneys is presented below:

	1983	1984	Estimates 1985
Matters received.....	98,385	67,883	73,982
Matters closed.....	77,721	94,876	99,414
Matters pending, EOY.....	44,659	55,218	48,082
Cases filed.....	31,243	33,030	36,002
Cases terminated.....	30,451	31,674	34,634
Cases pending, EOY.....	25,630	26,986	28,354
Grand Jury proceedings.....	17,765	17,400	19,064
Trials.....	4,994	3,422	3,693

The Criminal Litigation program objectives are accomplished through the work of 94 U.S. Attorneys' offices, each of which has responsibility for the investigation and prosecution of a wide range of proscribed criminal behavior. Actual and estimated accomplishments are reflected in the above workload data. Criminal filings for all U.S. Attorneys' offices in 1984 increased 5.72 percent over 1983. This includes 3,500 criminal appeals filed. The greatest volume of filings were in controlled substance (4,802), fraud vs. Government (2,379), Immigration (1,970), mail & wire fraud (1,258) and tax evasion (968). Cases terminated also increased by 6.66 percent over the previous year. In total 34,634 cases closed, 24,767 defendants made pleas of guilty; 6,443 defendants were found guilty after trial; and 1,004 defendants were found not guilty (including 14 not guilty verdicts by reason of insanity). Grand Jury proceedings included 17,702 indictments and 63 No True Bills, for a total of 17,765 actions, an increase of 4.10 percent.

Complaints received increased 3.70 percent in 1983. However, 64,281 complaints were closed without reaching the district courts. Of this number, 35,772 referrals involving 53,144 defendants were closed by immediate declination of prosecutions. Another 13,444 matters involving 19,312 defendants were declined after further investigations, and 10,368 were disposed of by Federal magistrates.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Civil Litigation.....	1,901,178	894,976	2,005,196	\$104,692	2,005,196	\$104,692
					...	...

Civil Litigation.....	1,901 1,787	994,976	2,005 1,960	\$104,692	2,005 1,960	\$104,692
<p>Long Range Goal: To protect or to advance the interests of the United States through the conduct of civil litigation.</p>						

### Major Objectives:

To respond promptly and professionally to all suits brought against the United States, its officers, and employees. To professionally conduct affirmative litigation in order to recover for the United States all possible monetary losses and compensation for damages suffered by the United States.

**To support federal programs, as necessary, by litigation and negotiation.**

**To collect monies owed to the United States and to increase the effective rate of recovery.**

**To articulate completely and forcefully the position of the United States on issues presented by the Courts of Appeals.**

**Base Program Description:** Civil matters and cases consume a significant portion of the U.S. Attorneys' resources. A rough measure of this can be seen from the following figures taken from 1993 data. Excluding appeals and management hours, the U.S. Attorneys expended resources in the following manner.

	<b>Attorney FTE Workyears</b>	<b>Paralegal FTE Workyears</b>	<b>Clertical FTE Workyears</b>
Total	1,726.35	146.11	1,376.16
Criminal	1,135.91	66.58	713.65
Civil	590.44 or 342	79.53 or 542	662.51 or 482

To an ever increasing extent, controversies between the U.S. Government and private parties have become the subject of civil litigation. Excepting collections cases, there are almost twice as many suits initiated by private parties against the U.S. Government as there are suits initiated by the U.S. Government itself. The litigation brought against the U.S. Government covers a range of causes of action including torts (damage suffered as a result of Government action--e.g., collision with a postal vehicle, malpractice by a government physician, invasion of privacy by a Government agent--e.g., social security benefits, tax refund, contract violation, racial/sexual harassment), and habeas corpus. The U.S. Government, on the other hand, initiates civil litigation against private parties for a wide range of purposes of its own. These purposes include the recovery of money obtained from the Government by fraud, the acquisition of interests in land by eminent domain proceedings, the enforcement of administrative summonses, the enforcement of environmental, admiralty, civil rights and other laws for which there are civil law penalties, and the recovery of debts owed to the U.S. Government.

The representation of the U.S. Government in civil litigation has a very tangible effect on Government assets. A thorough, well-developed defense will operate to minimize the exposure of the Government to claims against it. Similarly, an aggressive advocate on behalf of the Government will maximize the amounts recovered in plaintiff actions.

The diversity, complexity, and significance of the civil caseload continues to grow. Efforts of the U.S. Attorneys' offices in the Civil Litigation program are concentrated upon enforcing and defending the Administration's programs and policies, bringing suits to collect monies owed to the United States by delinquent debtors and receiving money lost to the Government through waste, fraud and corruption.

The U.S. Attorneys handle tort cases of all types including automobile accident, medical malpractice and aviation tort cases. There has been an increase in blivens cases (cases in which plaintiff seeks money damages from a federal employee personally for alleged violations by the employee of the plaintiff's Constitutional rights). U.S. Attorneys handle a significant number of Indian claims as well as serious personal injury, wrongful death and other civil matters arising from violations occurring on publicly owned land such as parks, national forests and deserts. Finally, the U.S. Attorneys handle an almost unmanageable amount of litigation arising from reviews of Social Security entitlements.

Significant resources are devoted to both defending injunctive suits and bringing suits for enforcement of federal programs. The U.S. Attorneys have been called upon to handle numerous land condemnation cases, actions to enjoin implementation of federal land use programs and injunctive actions related to environmental and natural resource matters such as the clean up toxic waste sites and the removal of encroachments on military air fields, on Indian trust lands and on floodways of rivers. U.S. Attorneys also handle individual and class action suits filed against the Immigration and Naturalization Service and the Department of Health and Human Services as well as a significant amount of civil forfeitures.

To support the 85 new judgeships created by the Bankruptcy Amendments and Federal Judgeship Act of 1984 (P.L. 98-353, July 10, 1984), the U.S. Attorneys anticipate additional resources of 74 FTE workyears, 148 positions and \$4,818,000 in 1985 for the conduct of civil litigation.

Accomplishments and Workload: The civil litigation workload of the U.S. Attorneys is presented in the following:

	1983	1984	Estimates	1986
Matters received.....	103,317	102,721	106,829	111,102
Matters closed.....	15,698	15,068	16,326	16,979
Matters pending, EOY.....	50,154	45,586	39,694	33,566
Cases filed.....	93,694	101,967	111,144	115,590
Cases terminated.....	71,613	83,036	86,357	89,811
Cases pending, EOY.....	135,218	134,149	178,936	204,718
Trials.....	1,248	2,242	2,377	2,472
Collections (\$000).....	\$310,000	\$369,000	\$383,760	\$399,110

Civil cases filed in 1984 increased 8.83% over 1983. This compounded an increase of 25.92 percent experienced in 1983 over 1982. In fact, 74 districts had increases while only 14 showed decreases during the year. The largest increase in 1983 occurred in the Defense of Monetary Claims category with cases filed increasing to 27,374 from 18,376 in 1982.

Civil case terminations also increased in 1984 by 15.93%. This followed an increase in 1983 of 14.93 percent over 1982. This increase was felt in 70 districts, and 19 districts experienced a decrease in civil case terminations. Of the cases terminated in 1983, 11,645 were suits in which the Government as defendant was sued for \$1,676,034,607. Of these, 763, involving \$335,009,936, were closed by compromise amounting to \$15,346,904 and 2,909, involving \$302,039,928, resulted in judgments against the Government amounting to \$24,593,574. The remaining 7,793 cases, involving \$1,038,994,743, were won by the Government, thus bringing the savings to \$1,631,331,938, or an increase of 45.41 percent, more than the amount saved in 1982.

The U.S. Attorneys continue to pursue actively the collection of monies owed on student loans, Veterans Administration overpayments, and Small Business Administration loans. During 1983, cash collections only (this does not include non-cash amounts recovered, i.e., airplane, houses and other personal property acquired by the government) exceeded \$200,000,000, a 33 percent increase over 1982.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount
Legal Education .....	25	24	\$2,595	25	24	\$2,693	25	24	\$2,693	...	...	...

Long Range Goal: To improve the quality of Government legal representation.

Major Objectives:

To improve the quality of Federal Government legal representation.

To provide effective, quality continuing legal education to an increasing percentage of Federal Government attorneys and other legal personnel.

To provide special training to assist in meeting policy priorities and special problems, such as victim and witness protection and the Organized Crime Drug Enforcement Task Forces, which cross department and agency lines.

To offer video and audio tapes and other materials as a means of reaching a greater percentage of the federal attorneys in district and regional offices of the departments and agencies, and reduce the travel costs associated with continuing legal education.

**Base Program Description:** The Office of Legal Education administers two institutes that provide continuing legal education to federal attorneys. There are more than 17,000 attorneys and several thousand other legal personnel, mostly paralegal specialists, as the potential audience for continuing legal education. The primary vehicle for providing instruction to Department attorneys is the Attorney General's Advocacy Institute (AGAI). The AGAI utilizes experienced trial attorneys and federal district court judges as instructors for lecture, discussion, and performance exercise sessions. Through the use of video tape facilities, student performances are recorded and played back for analysis and critique. By conducting courses in Washington, D.C., the AGAI also offers a means of introducing new Assistant U.S. Attorneys, as well as the Department's legal division attorneys, to the operational practices of the Department headquarters. Specialized topics are covered in lecture and problem-solving workshop sessions; these short seminars are held in Washington, D.C., and in locations around the country.

While the AGAI focuses on teaching courtroom technique, discovery, and negotiation skills to Department attorneys, the Legal Education Institute (LEI) teaches administrative advocacy and a wide variety of substantive subjects to attorneys and other legal personnel employed throughout the Executive Branch. The federal perspective on topics practiced by legal personnel are presented in lecture and problem-solving workshop sessions; administrative and courtroom advocacy skills are taught through workshops during which exercises are videotaped for critical analysis by experienced practitioners. Federal attorneys and other legal personnel are not only participants but also are advisors, curriculum developers, and teachers of LEI programs. Programs are held primarily in Washington, D.C., and in other cities that have concentrations of federal employees.

**Accomplishments and Workload:** The legal education workload of the U.S. Attorneys is presented below:

	1983	1984	1985	1986
			Estimate	
<b>Advocacy Skill Instruction</b>				
Criminal sessions offered.....	6	6	6	6
Advanced Criminal.....	2	3	3	3
Civil sessions offered.....	5	6	6	6
Appellate sessions offered.....	4	4	4	4
Students receiving Advocacy Instruction.....	742	800	800	800
Specialized seminars conducted.....	21	24	24	24
Students participating in Specialized Seminars.....	1,750	1,920	1,920	1,920
<b>Legal Education Institute</b>				
Separate Titles offered.....	22	36	40	40
Total Courses offered.....	47	80	100	100
Students receiving Advocacy Instructions.....	2,982	3,900	5,100	5,100



The AGAI and LSI continue to increase the types of courses offered and the number of attorneys benefiting from the training. In 1983, approximately 5,000 Executive Branch attorneys and other legal personnel attended courses, nearly 3,000 of these in LSI programs. Participants represented every federal executive department and agency and 52 of the 53 independent government establishments. LSI offered participants a choice of 36 substantive law and advocacy skills programs. During 1984, LSI developed 14 new courses and is offering 33 more sessions than in the previous fiscal year. The Advocacy Skills series was increased to three types of programs; the new offering is negotiation. Advanced Information Law, the Privacy Act, and seminars in specific Freedom of Information Act exemptions were added to the Information Law series. Legal Writing and Editing for Supervisory Lawyers was added to the Attorney Management series. The Regulatory Process series was expanded to offer programs on rulemaking, investigation, adjudication, and cross-agency enforcement responsibilities. The Contract series has been redesigned to address legal issues arising in different types of contracts. This series also includes programs that address remedies for contract disputes, fraud in contracting, and other enforcement matters. LSI developed a legislative process series to address legislative drafting and Congressional relations.

In AGAI, in addition to the continued improvement in the basic courses, a number of new subjects have been added to the seminar series. For example, in response to requests for the litigating divisions, the Advocacy Institute will offer seminars in financial crimes, securities fraud, and organized crime. Special sessions have been held to meet special problems, such as the new Victim-Witness Protection Act, which places special responsibilities on the U.S. Attorneys' offices, the special Civil Division section that works with U.S. Attorneys' offices and agencies on the asbestos litigation, the Department's increased activity with the Environmental Protection Agency in enforcing environmental crimes, and the increase in tax protester litigation.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY
Organized Crime Drug Enforcement...	367	350	\$20,394	367	350	\$20,595	367	350	\$20,595	...	...

**Long-Range Goal:** Through the coordination of Federal, State, and local law enforcement efforts, identify, investigate, and prosecute those individuals involved in drug trafficking and organized crime.

**Major Objectives:**

To prosecute individuals who organize, finance, or are otherwise engaged in high-level illegal drug trafficking enterprises, including large scale money laundering organizations.

To promote a coordinated drug enforcement effort in each Task Force area, and to encourage maximum cooperation among all drug enforcement agencies.

To work fully and effectively with State and local drug enforcement agencies.

To make full use of financial investigative techniques, including tax law enforcement and forfeiture actions.

**Base Program Description:** In October 1982, President Reagan announced a major new initiative to combat organized crime and drug abuse. Drug trafficking and organized crime are among the most serious crime problems facing the nation. The proceeds from drug sales further enable organized crime to carry out an array of serious crimes, including bribery of public officials, infiltration and take over of legitimate business firms, and money laundering and bank fraud which weaken key parts of the economy.

The Organized Crime Drug Enforcement (OCDE) program is an unprecedented effort representing the utmost degree of cooperation and coordination among federal, state and local law enforcement. One of the key elements of the program is the establishment of regional task forces to fight trafficking. They will identify, investigate, and prosecute members of high-level drug trafficking enterprises to destroy the operation of those organizations.

**Accomplishments and Workload:** The Organized Crime Drug Enforcement workload of the U.S. Attorneys is presented below:

Item	Estimates		
	1983	1984	1985
Cases initiated.....	350	400	430
Cases in which indictments are returned.....	70	250	280
Indictments returned.....	74	500	535
Defendants indicted.....	735	2,000	2,140
Defendants charged with Racketeer Influenced and Corruption Organization.....	65	250	265
Defendants charged with Continuing Criminal Enterprise..	51	110	165
Defendants convicted.....	150	1,800	1,881

The OCDE Task Force's mission is the prosecution of the individuals who direct and finance highlevel drug trafficking organizations. The Task Forces are prosecuting the top leadership of the targeted drug trafficking organizations. At the beginning of Fiscal Year 1984, over 466 cases were being investigated, with over 2,000 individuals being targeted in those cases. Almost 30 percent of the principal targets in 466 cases are top leaders of the organizations. An additional 25 percent are mid-level leaders. Over 1,300 persons had actually been indicted in 129 cases. In addition, the Task Forces are attacking the financial underpinning of the drug trade. Over 150 cases are targeting financiers and money launderers of drug trafficking organizations.

The OCDE Task Force program has accomplished the establishment of a Task Force Coordination Group for each Task Force, and a Drug Enforcement Coordination Group for each judicial district. These groups are responsible for, inter alia, case selection and coordination at both the Task Force and district levels. The U.S. Attorney and Task Force attorneys are actively involved in coordination among the various agencies. Close consultation with state and local law enforcement has been effectively achieved through the cross-designation of state and local prosecutors as Special Assistant U.S. Attorneys. At the end of calendar year 1983, 37 such appointments were in effect. Similarly, 49 Assistant U.S. Attorneys had concurrent appointments as special state or local prosecutors, many of such appointments are for Task Force cases.

Special training in forfeiture techniques has been accomplished by many Task Force attorneys. Additional assistance has been made available by the Forfeiture Section of the Criminal Division and the U.S. Marshals Service's handling of forfeited property to improve financial crime cases.

The OCSF Task Force attorneys are taking advantage of another financial investigative technique with the Treasury Financial Law Enforcement Center (TFLEC). Through the U.S. Customs Service Task Force designees, large cash transactions made at banks and large amounts of cash leaving the United States are being traced. The Task Force attorneys continue to develop and coordinate resources to make improved financial crime cases against major drug traffickers.

1985 Appropriation				1986 Base				1986 Estimate				Increase/Decrease	
Anticipated				Perm.				Perm.				Perm.	
Pos.	NY	Amount		Pos.	NY	Amount		Pos.	NY	Amount		NY	Amount
Management and Administration..	128	166	\$15,609	128	166	\$15,793	128	166	\$15,197	...	...	...	-\$596

Long-range Goal: To provide consistent direction and an appropriate distribution of resources to the U.S. Attorneys and to respond promptly and efficiently to the administrative needs of the 94 U.S. Attorneys' offices.

#### Major Objectives:

To provide management leadership and direction to the Executive Office for U.S. Attorneys (EOUSA) and U.S. Attorneys' Offices.

To coordinate the successful implementation of all 94 district Law Enforcement Coordinating Committee plans.

To represent the interests of all U.S. Attorneys in the development of Department of Justice policy and to support system-wide consistency in the conduct of federal litigation.

To conduct a field review, management audit and performance evaluations of each U.S. Attorney's Office.

To formulate and execute an operating budget to satisfy the optimal needs of U.S. Attorney's offices.

To formulate and implement Equal Employment Opportunity policy.

To formulate and exercise personnel management policy and authority to order to obtain the most qualified individuals for positions in the U.S. Attorneys' Offices.

To provide all administrative support necessary to obtain adequate space and equipment.

To complete the design and implementation of a caseload management system and to make available optimal office technology for the U.S. Attorneys.

To provide policy direction and resources that will result in optimal efficiency in the collection of debts owed the U.S. Government.

Base Program Description: The Management and Administration program encompasses all of the Executive Office for U.S. Attorneys (EOUSA) with the exception of the Office of Legal Education. The Executive Office provides general assistance and supervision to the 94 U.S. Attorneys' offices and coordinates and directs the relationship of other organizational units of the Department with these offices. Through the Office of Management Information Systems and Support, the EOUSA provides U.S. Attorneys' offices with the information and automated information systems necessary to achieve Department objectives and to ensure efficient use of resources. The Evaluation and Review Staff of the EOUSA is directed toward assisting U.S. Attorneys in recognizing improvements which can be made in the use of professional personnel and reducing the cost of the operation of the U.S. Attorneys' offices. The EOUSA, through its Legal Services Unit, provides legal opinions, interpretations and advice to U.S. Attorneys on concerns such as legislation, regulations and departmental guidelines. In addition, the EOUSA has responsibility for implementing affirmative action programs within the U.S. Attorneys' offices while managing a discrimination complaint program through its Equal Employment Opportunity unit. The Debt Collection staff of the EOUSA provides direction and oversight to U.S. Attorneys in the conduct of their debt collection activities.

One of the more critical responsibilities of the EOUSA is the oversight of the Law Enforcement Coordination Committee (LECC) program in each U.S. Attorney's Office. Each office is responsible for the formulation and implementation of such a plan. These plans are the backbone of the Administration's efforts to join with State and local authorities in conducting law enforcement functions.

Another important responsibility of the EOUSA is the exercise of personnel management authority within the EOUSA and the U.S. Attorneys' offices. The personnel authority includes all phases of personnel operations such as recruiting, selection, classification, training, adverse action and employee relations.

The acquisition and renovation of space as well as procurement of all equipment, furniture, supplies and materials is another program function of the EOUSA.

Finally, through its Budget Staff, the EOUSA formulates and executes a budget for all 94 U.S. Attorneys' offices and itself. The formulation process includes any need for amendments, supplements, reimbursements and transfers.

**Accomplishments and Workload.** Accomplishments of the Management and Administration program are presented in the following:

	1982	1984	1985	1986
1. Personnel:				
a. AUSA appointments.....	664	620	827	964
b. Support staff appointments.....	855	1,150	1,316	1,510
c. Position classifications completed.....	606	660	719	734
d. Total personnel actions processed.....	10,149	12,554	15,100	16,850
2. Legal Services				
a. Information requests pending, start-of-year..	1,651	1,690	1,731	1,774
b. Information requests received.....	1,322	1,389	1,526	1,681
c. Information requests completed.....	1,283	1,348	1,483	1,634
d. Information requests pending, end-of-year....	1,690	1,731	1,774	1,601
Office evaluation reports.....	46	45	47	47
Financial obligations recorded.....	9,627	10,359	12,030	13,000
U.S. Attorney Cash Collections (\$000).....	\$201,591	\$225,000	\$262,500	\$305,000

Within the Executive Staff of the EOUSA, a communications center was established to respond to the thousands of telephone, teletype and mail communications which originate and terminate in the EOUSA. The center has established a system of tracking all written correspondence into and out of the office; implemented a system to ensure that all deadlines are met; established a switchboard system to receive all incoming calls to the EOUSA and route them to the proper party; and implemented a system to receive and route all teletype messages to the correct person while revising and editing all out-going correspondence for style and format.

Before 1983, there were only eight Law Enforcement Coordinating Committee (LECC) plans that had been approved for the U.S. Attorneys' offices. With the advent of the new Special Counsel and direct input from the Attorney General, the number of approved plans increased to over 80. In addition to the significant increase of approved plans, a **Spillout Program** was revitalized with Department and other government officials participating in over 120 LECC meetings. To facilitate communication within the Department, the U.S. Attorneys' offices, and other law enforcement organizations, a **Law Enforcement Coordinating Committee Network News** publication was sent to all participants. The **News** publishes items of interest including actual case highlights achieved through the combined efforts of Law Enforcement Coordinating Committee members.

The Evaluation and Review Staff conducted evaluations in 33 U.S. Attorneys' offices. The evaluations assess how well cases are handled and how well they are supervised. The section sponsored a conference attended by 27 chiefs of Civil Sections for the larger U.S. Attorneys' offices to discuss Department policy with the Associate Attorney General, Civil Division and

other Department officials. Two U.S. Attorney Management seminars were sponsored by the Evaluation and Review Staff. Of the 93 U.S. Attorneys, 73 attended these seminars which were designed to permit U.S. Attorneys to exchange information relating to improving the management of their offices and increasing the efficiency of their personnel.

In the Debt Collection Section (DCS) of the EUSA, major accomplishments have been achieved. Cash recovered by U.S. Attorn on civil debts and criminal fines during 1983 amounted to nearly \$201,591,000. This represented a dramatic increase of 33 percent over the amount of cash collected in 1982. It cost the U.S. Attorneys' \$1.00 to collect every \$23.54 during 1983. The compares with one dollar for every \$19.71 in 1982. In early 1983, the DCS completed the Claims Collection Litigation Report (CCLR), and the General Accounting Office officially implemented the CCLR for uniform use by all federal agencies when referring debt claims to the Department for litigation and enforced collection. A Direct Deposit System was developed with the Citizens and Southern National Bank of Atlanta for the bank to process all of the funds recovered by the U.S. Attorneys in pursuit of the Government's debtors. The DCS has worked on the development of a direct deposit slip and the procedures necessary to effectively implement the system. The DCS conducted three debt collection training conferences during 1983 as well as an interagency training conference which instructed client agency personnel on proper preparation of the CCLR. At the close of the fiscal year, the EUSA has achieved 120 percent of its 1983 debt collection training goal and 90 percent of its three-year training goal through 1984.

The Office of Management Information Systems and Support (OMISS) within the EUSA has responsibility for the development and implementation of the Prosecutors Management Information System (PMHIS) as well as general data/word processing requirements for all U.S. Attorneys' offices. Versions of PMHIS tailored to each U.S. Attorney's office are to be running on computers in the 20 to 30 largest U.S. Attorneys' offices and on word processing equipment in the remaining offices.

**Program Charges.** In support of Presidential policy, the Management and Administration program has \$5,956,000 available for a ten percent reduction. (The remaining dollar resources are for contractual obligations for the field structure and are not part of overhead costs associated with the management of U.S. Attorneys by the Executive Office.) In order to implement the reduction, the Executive Office will employ a combination of cost-sharing measures. Included in the steps to be taken will be deferring the filling of vacancies. The vacancy rate will be continue in EUSA in areas other than direct operational support. Other areas to be curtailed may be equal employment opportunity training and field evaluations.

United States AttorneysSalaries and expenses U.S. Attorneys and MarshalsPriority Ranking

<u>Base Program</u>	
<u>Program</u>	<u>Ranking</u>
Original Litigation	1
Civil Litigation	2
Organized Crime Drug Enforcement	3
Management and Administration	4
Legal Education	5

United States Attorneys  
Salaries and expenses, U.S. Attorneys and Marshals  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

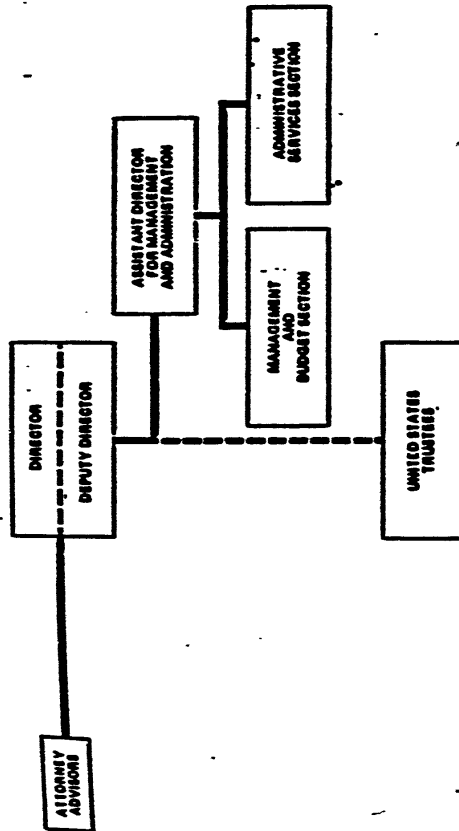
Category	1984		1985		1986	
	Authorized	Authorized	Authorized	Proposed Supplemental	Total	Total
Attorneys (905).....	2,200	2,439	2,439	235	2,674	2,674
Paralegal Specialists (950).....	239	255	255	44	299	299
Legal and Kindred (980-988).....	875	979	979	...	979	979
Criminal Investigative Series (1811).....	10	10	10	...	10	10
Social Sciences, Economics and Kindred (100-199).....	2	2	2	...	2	2
Personnel Management (200-299).....	28	28	28	...	28	28
General Admin., Clerical and Office Services (300-399)...	1,377	1,556	1,556	281	1,837	1,837
Accounting and Budget (500-599).....	12	12	12	...	12	12
Library and Archives Group (1400-1499).....	8	8	8	...	8	8
Supply Group (2000-2099).....	2	2	2	...	2	2
Total.....	4,753	5,291	5,291	560	5,851	5,851
Washington Field.....	142	142	142	...	142	142
Total.....	4,611	5,149	5,149	560	5,709	5,709
Total.....	4,753	5,291	5,291	560	5,851	5,851



United States Attorneys  
Salaries and expenses, U.S. Attorneys and Marshals  
Financial Analysis - Program Changes  
(dollars in thousands)

Item	Management and Administration For, FY.
Ingraded positions.....	...
Total positions and annual rate.....	...
Lapses (-).....	... -4237
Total workyears and personnel compensation.....	... -237
Personnel benefits.....	... -20
Travel and transportation of persons.....	... -33
Transportation of things.....	... -1
Standard level user charges.....	... -32
Communications, utilities and other rent.....	... -140
Printing and reproduction.....	... -32
Other services.....	... -76
Supplies and materials.....	... -6
Equipment.....	... -19
Total workyears and obligations, 1986.....	... -596

UNITED STATES TRUSTEES



- ALEXANDRIA
- BIRMINGHAM
- BOSTON
- CHICAGO
- DALLAS
- DENVER
- LOS ANGELES
- MINNEAPOLIS
- NEWARK
- NEW YORK

Approved: *[Signature]*  
 Edward G. Tamm  
 Deputy Attorney General

Date: JUN 2 1961

Bankruptcy Matters  
Salaries and expenses, U.S. Attorneys and their staff  
Continuation of 1985 Overview  
(in millions of dollars)

Activity/Program	1985 President's Budget Request		Congressional Appropriation Actions on 1985 Request		Retrospective Supplemental Requested		1985 Pay Supplemental Requested		1985 Proposed Revisions		1985 Appropriation Anticipated	
	Pos.	Am.	Pos.	Am.	Pos.	Am.	Pos.	Am.	Pos.	Am.	Pos.	Am.
1. Bankruptcy Matters:												
a. Administration of cases.....	...	...	149	148	87,743	...	...	...	-821	...	149	148
b. Management and Administration..	...	...	...	...	1,487	...	...	22	...	...	18	17
Total.....	...	...	149	148	89,230	...	...	164	-21	...	167	165

Explanation of Analysis of Changes from 1984 Appropriation Request

Congressional Appropriation Actions

Congress extended the termination date for the U.S. Trustee program from September 30, 1984 to September 30, 1985, and appropriated funds to maintain the program at a level that serves the pilot districts through September 30, 1985.

1985 Pay Supplemental Requested

The pay supplemental will provide \$164,000 to meet increased pay requirements.

Proposed Revision

In accordance with section 2901 of the Deficit Reduction Act, \$21,000 is proposed for revisions in the travel and other services areas.

Bankruptcy Matters  
Salaries and expenses, U.S. Attorneys and Marshals  
Summary of Requirements  
(Dollars in thousands)

	Perm. Pos.	1984 Yr.	1985 Yr.	1986 Yr.	1987 Yr.
<u>Adjustments to Base:</u>					
1985 as enacted.....	167	165	165	165	165
1985 Pay supplemental requested.....					
Proposed rescission.....					
1985 appropriation anticipated.....					
Savings resulting from management initiatives:					
Five percent pay reduction.....					
Uncontrollable increases:					
Annualization of 1985 pay increases.....					
Administrative salary increases.....					
Within-grade increases.....					
Health benefits costs.....					
GPO printing costs.....					
GSA recurring reimbursable services.....					
Federal Telecommunications System (FIS) rate increase.....					
Department telecommunications.....					
Automated legal research and litigation support services.....					
General pricing level adjustment.....					
Total, uncontrollable increases.....					
Decreases (automatic non-policy)					
Federal Employees Compensation Act (FECA) Unemployment Benefits.....					
1986 Base.....	167	165	165	165	165

	1984 Actual	1985 Appropriation	1986 Base	1986 Estimate	Increase/Decrease
	Perm. Pos.	Perm. Pos.	Perm. Pos.	Perm. Pos.	Perm. Pos.
<u>Estimates by budget activity</u>	<u>Yr.</u>	<u>Yr.</u>	<u>Yr.</u>	<u>Yr.</u>	<u>Yr.</u>
	<u>Amount</u>	<u>Amount</u>	<u>Amount</u>	<u>Amount</u>	<u>Amount</u>
1. Bankruptcy matters.....	167 173 \$8,097	167 165 \$9,378	167 165 \$9,378	...	-167 -165 -98,378

Bankruptcy Matters  
Salaries and expenses, U.S. Attorneys and Marshals  
Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1984 as Enacted			1984 Actual			1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount
Bankruptcy Matters, Administration of cases.....	149	148	\$6,842	149	156	\$6,721	149	148	\$7,864	149	148	\$7,846	...	...	...	-149	-148	-87,846
Management and Administration.....	18	17	1,384	18	17	1,376	18	17	1,509	18	17	1,532	...	...	...	-18	-17	-1,532
Total	167	165	8,226	167	173	8,097	167	165	9,373	167	165	9,378	...	...	...	-167	-165	-9,378
Other Workyears																		
Holiday.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Overtime.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total compensable workyears.....	166	166		174	174		165	165		165	165		...	...	...			-165

Bankruptcy Matters  
Salaries and expenses, U.S. Attorneys and Marshals  
Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity: Bankruptcy Matters	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	NY	Ant.	Perm.	NY	Ant.	Perm.	NY	Ant.	Perm.	NY	Ant.
Administration of cases.....	149	148	\$7,864	149	148	\$7,846	...	...	...	-149	-148	-\$7,846
Executive direction and control....	18	17	1,509	18	17	1,532	...	...	...	-18	-17	-1,532
Total.....	167	165	9,373	167	165	9,378	...	...	...	-167	-165	-\$9,378

Base Program Description: The U.S. Trustee program was established on a pilot project basis by the Bankruptcy Reform Act of 1978. The program operates in ten field office locations, and resources for these offices are provided through the "Administration of Cases" program. Within their respective jurisdictions, the U.S. Trustees are responsible for the supervision of three different kinds of bankruptcy cases under the bankruptcy code.

Chapter 7, or "liquidation" cases, involve the liquidation of a debtor's assets once certain statutory exemptions have been excluded from the estate. The debtor then ordinarily obtains a discharge from debt and a financial "fresh start." In chapter 7 cases, the U.S. Trustee serves as trustee when no private party is available to serve, maintains and supervises a panel of trustees eligible for appointment in further cases, may examine debtors and may object to their discharge from debt, may be heard by the Bankruptcy Court on the reasonableness of fees requested by individuals involved in the disposition of the estate's assets, and reviews final reports of private trustees regarding the bankrupt estates they have administered.

Chapter 11, or "reorganization" cases, combine features of Chapter X, XI and XII of the former Bankruptcy Act, and it allows for the total restructuring of the debt and the equity of affected debtors. If the debtor and creditors negotiate a satisfactory arrangement for restructuring the debt, chapter 11 provides an opportunity for rehabilitation of a debtor through a reorganization plan approved by the Bankruptcy Court. In chapter 11 cases, the U.S. Trustee appoints committees of creditors, may request the appointment of a trustee or examiner, presides at meetings where the creditors examine the debtor's financial status, supervises the administration of cases and appointed trustees, monitors awards of compensation (as in chapter 7 cases), and may comment on disclosure statements prepared by the debtor.

Chapter 13, or "repayment plan" cases, involve the adjustment of debts of an individual with regular income. Under chapter 13, a wage earner, or self-employed person meeting certain statutory criteria, can discharge debts by arranging for payments over a period of time (usually three years, but not more than five). In chapter 13 cases, the U.S. Trustee appoints a standing trustee to administer payments from all chapter 13 cases with approved repayment plans in a given area, may examine the debtor's financial status, recommends the percentage fee to be permitted for the standing trustee's compensation and operating expenses, and supervises the administration of cases and the work of the standing trustees.

The U.S. Trustees maintain ten field offices throughout the nation and serve eighteen judicial districts. For each district, the U.S. Trustee is responsible for fair and efficient bankruptcy case administration which affects not only the amount of money recovered for creditors, but also the equitable treatment of the debtor. Under the supervision of the Attorney General, the experimental U.S. Trustee pilot program has a significant responsibility for the effectiveness of this country's bankruptcy system. Although the pilot program operates in only 19 percent of the judicial districts (18 of 94), the U.S. Trustee administrator more than 29 percent of all cases filed under chapter 7, 11 and 13, including 28 percent of those filed under chapter 11.

The "Executive Direction and Control" program provides the U.S. Trustee with the centralized staff support needed to function efficiently. From its location in Washington, D.C., the Executive Office for U.S. Trustee provides central administrative services in basic areas such as policy direction, legal counsel and litigation support in bankruptcy cases, procurement, personnel, budgeting, space management, management analysis, automated system development and support, and coordination with other Department of Justice or Federal Government organizations.

Program Changes: The Administration proposes to discontinue the pilot U.S. Trustee program at the end of 1985 unless specific action is taken by Congress to continue it. The Department is currently considering a number of options for bankruptcy administration.

Bankruptcy Matters  
Salaries and expenses, U.S. Attorneys and Marshals  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985 Authorized	1986	
			Program Decreases	Total
U.S. Trustees or Assistant U.S. Trustees (301).....	20	20	-20	...
Bankruptcy Analysts (301).....	22	22	-22	...
Attorneys (905).....	18	18	-18	...
Paralegal Specialists (950).....	36	36	-36	...
Other Legal and Kindred (900-998).....	47	47	-47	...
Personnel Management (200-299).....	1	1	-1	...
General Admin., Clerical and Office Services (300-399).....	22	22	-22	...
Accounting and Budget (500-599).....	1	1	-1	...
Total.....	167	167	-167	...
Washington.....	18	18	-18	...
U.S. Field.....	149	149	-149	...
Total.....	167	167	-167	...



Burdening Matters  
Salaries and expenses, U.S. Attorneys and Marshal  
Financial Analysis - Program Changes  
(Dollars in thousands)

Item	Administration of Cases			Management and Administration			Total		
	Pos.	Amount	Pos.	Management and Administration		Pos.	Total		
				Amount	Amount				
<u>Grades</u>									
GS-5.....	...	...	-1	-971	-1	-971			
GS/GS-15.....	...	...	-3	-165	-3	-165			
GS/GS-14.....	-7	-938	-3	-141	-10	-499			
GS/GS-13.....	-19	-778	-4	-155	-23	-933			
GS-12.....	-4	-138	-1	-34	-5	-172			
GS-11.....	-8	-232	-1	-29	-9	-261			
GS-9.....	-30	-764	-2	-50	-32	-814			
GS-8.....	-21	-458	-1	-21	-22	-479			
GS-7.....	-20	-399	-1	-20	-21	-419			
GS-6.....	-13	-266	-1	-16	-14	-282			
GS-5.....	-7	-111	...	...	-7	-111			
Ungraded.....	-20	-1,162	...	...	-20	-1,162			
Total positions and annual rate.....	-169	-4,666	-18	-702	-167	-5,368			
Lapses (-).....	5	164	1	33	6	197			
Other than permanent positions.....	-4	-208	...	-19	-4	-227			
Other personnel compensation.....	...	-55	...	-4	...	-59			
Total workyears and personnel compensation.....	-148	-4,765	-17	-692	-165	-5,457			
Personnel benefits.....	...	-495	...	-74	...	-569			
Benefits to former personnel.....	...	...	...	-4	...	-4			
Travel and transportation of persons.....	...	-286	...	-80	...	-366			
Transportation of things.....	...	-24	...	-9	...	-33			
Standard level wear charges.....	...	-1,270	...	-88	...	-1,358			
Other rent & communications.....	...	-368	...	-227	...	-595			
Printing.....	...	-41	...	-10	...	-51			
Other services.....	...	-262	...	-291	...	-553			
Supplies and materials.....	...	-145	...	-15	...	-160			
Equipment and furniture.....	...	-190	...	-42	...	-232			
Total workyears and obligations, 1986.....	-148	-7,846	-17	-1,532	-165	-9,378			

Mr. DWYER. Mr. Tyson, you have a prepared statement. Please proceed in your own way.

#### GENERAL STATEMENT

Mr. TYSON. Thank you very much, Mr. Chairman. I appreciate your inserting into the record the statement I have submitted in advance. With the Chairman's permission, I would like to make an opening statement in reverse order, covering the 1985 supplemental, then into the fiscal year 1986 budget request.

For the 1985 supplemental, the U.S. Attorney's portion of this request is for 560 positions and \$17,810,000. I will be followed by Mr. Morris, Director of the Marshals Service, I am accompanied today by United States Attorney Elsie L. Munsell from the Eastern District of Virginia and U.S. Attorney Joe Brown from the Middle District of Tennessee.

Also with me is Richard L. DeHaan, Director of the Office of Administration and Review of my office. Ms. Munsell and Mr. Brown are members of a special subcommittee of the Attorney General's Advisory Committee of the U.S. Attorney's which was created to assist in the budget preparation and presentation. They are here today to assist in presenting matters and responses from the perspective of our field commanders, so to speak.

Our supplemental has three parts: first, support for the increased workload due to the increased judgeships. Here we are asking for 398 positions and \$12,945,000. Second, due to the passage of the Comprehensive Crime Control Act of 1984, 162 positions and \$1,800,000 are requested. Finally, we are asking for \$3,065,000 to relocate the District of Columbia, U.S. Attorney's Office.

#### SUPPORT FOR NEW JUDGESHIPS

As to the increased workload due to the new judgeships; in 1984, Congress authorized 85 new judgeships, 61 trial judges and 24 new appeals judges. Our experience has indicated that we need, at the trial level, three Assistant U.S. Attorneys for each judge, and at the appeals level we need two Assistant U.S. Attorneys for every three judges. Based on this experience and servicing ratio, we need 199 Assistant U.S. Attorneys and 199 support personnel to service these additional judges.

We would expect to use around 125 of those attorneys for criminal litigation and about 74 for civil litigation. The addition of new judges always increases the capacity of the judicial system to handle litigation. It is not the government lawyers who generate lawsuits against the government. About 60 percent of the civil caseload is in this category. Civil lawsuits, on behalf of the government, approximate 40 percent of our civil workload. These lawsuits are to collect money due and owing to the government and to present claims on behalf of the government.

On the criminal side, our workload is generated by criminal activity, and the investigations of such activity conducted by the Federal investigative agencies that we are responsible for servicing. Over 70,000 violations of the Federal statutes are investigated annually and referred to the United States Attorneys Offices for review.

There are nearly 100 agencies with some criminal investigative responsibility. About 94 percent of our workload or criminal referrals, however, comes from 11 of those agencies. The past shortages of judges for a number of years now have caused backlogs in both civil and criminal matters and cases. The new judges will, as I indicated, cover these civil and criminal backlogs. We do not now have the resources to respond. Without new resources to respond to this increased judicial activity, the interest of the United States simply will not be adequately protected. We will be spread too thin and physically unable to make some court appearances and other hearings and conferences that are set by the judges in connection with pending cases. When these new judges hold court we need to have a lawyer present to represent the government.

Another factor is that some of the judges who will be holding court in isolated locations not previously serviced will require us to staff some additional branch offices that we do not presently staff.

#### COMPREHENSIVE CRIME CONTROL ACT

As for the workload resulting from the passage of the Comprehensive Crime Control Act of 1984, the major causes are the bail reform provisions and increased Federal jurisdiction in a number of respects. U.S. Attorneys are already feeling the impact, especially in criminal collections and in the pretrial detention area.

We need 36 additional assistant U.S. Attorneys and 126 additional support personnel, or a total of 162 positions and \$1,800,000 to service these, to meet the workload stemming from this new legislation. We estimate, for example, 2,100 individual pretrial detention hearings under the Organized Crime Drug Enforcement task force program. Each of the hearings requires about one full day of Assistant U.S. Attorney preparation and court time. In fine assessments, we anticipate some 40,000 assessments. At least 10 percent of these we would require debt management by the personnel in the U.S. Attorney's Office after imposition. Increased rights of appeal for criminal defendants and the government will increase our appellate workload by about 5 percent. The other causes of increased workload due new legislation, we would estimate 350 to 400 new defendants involving forfeiture provisions under RICO. We estimate 2,000 additional criminal cases due to expanded jurisdiction. There are some 47 new or modified offenses. For seven of them we estimate a substantial number of increased cases. Also, we estimate an increased workload due to amendments in the foreign currency transaction provisions of the bill.

#### RELOCATION OF THE DISTRICT OF COLUMBIA OFFICE

Finally, on relocation of the District of Columbia's U.S. Attorney's Office, the judges of the District and Appellate Court and the D.C. Superior Court have issued ultimatums to vacate space in both the Federal Courthouse and the District of Columbia Superior Court to make more room for the courts. We are asking for \$3,065,000 to complete the relocation of this office. The request is to pay for the balance of moving, renovation, and costs associated with rental of the space.

Finally, in the 1985 supplemental, we are requesting a reduction of 352,000 from the 1985 appropriation.

#### 1986 BUDGET REQUEST

Now, if I may cover the 1986 request, the U.S. Attorneys portion of the 1986 request is for a total of 5,851 positions, \$333,468,000.

The U.S. Attorney's request is for prosecution of criminal offenses, advice to investigative agencies, investigation of criminal activity, and the conduct of civil litigation.

In 1984 we filed 30,292 criminal cases and 100,091 civil cases. The civil caseload continues to increase. We are not requesting any programmatic increase in positions however. The increase of \$16,194,000 is for net uncontrollable adjustment of our 1985 budget. This includes a \$596,000 reduction in our management and administration activities.

As part of the uncontrollable adjustments, we are requesting \$14,653,000 for annualizing 709 positions provided or to be provided. Those positions support the tax prosecution units, LECC victim-witness coordinators, the 13th Organized Crime Drug Enforcement Task Force, and support of D.C. Superior Court Judges which were authorized in the regular 1985 budget. The annualization also includes support of the 1985 new judgeships and the resources needed to handle the workload created by the Comprehensive Crime Control Act, which I have just described in our 1985 supplemental budget request.

In summary, Mr. Chairman, we need the resources in our 1985 supplemental and our regular 1986 budget request to meet the increased workload generated by the new judges who will be moving backlogs, the new business generated by the Comprehensive Crime Control Act and referrals of our civil client agencies.

We project a 17 percent increase in criminal workload by 1987 and 19 percent increase in our civil workload. In raw numbers, we estimate from four agencies that provide 30 percent of our criminal referrals an increase of 5,748 referrals.

On the civil side, we estimate from four agencies that provide over 55 percent of our civil workload, an increase of 6,600 referrals. Mr. Chairman, that is all of my prepared statement.

[The prepared statements of Mr. Tyson follow:]

DEPARTMENT OF JUSTICE  
STATEMENT OF THE DIRECTOR  
EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS  
WILLIAM P. TYSON

BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE,  
THE JUDICIARY AND RELATED AGENCIES

Mr. Chairman and members of the subcommittee:

I am pleased to have the opportunity to appear before you on behalf of the 1986 request for U.S. Attorneys, U.S. Trustees, and U.S. Marshals. The total request is for \$478,057,000 and 8,430 positions, a net decrease of \$11,561,000, from the 1985 appropriation anticipated. The request for the U.S. Attorneys is \$333,468,000 and 5,851 positions; for the U.S. Trustees, the administration is requesting termination of the program; and for the U.S. Marshals Service, \$144,589,000 and 2,579 positions.

My role today will be to present the portion of the request which pertains to the U.S. Attorneys. I will be followed by Mr. Stanley Morris, Director, United States Marshals Service, who will appear on behalf of the Marshals Service, the Support of U.S. Prisoners appropriation, and the Assets Forfeiture Fund.

The U.S. Attorneys' request provides for the prosecution of federal criminal offenses and the conduct of the government's civil litigation in the 94 federal judicial districts. Last year we filed

30,239 criminal cases and 100,901 civil cases. Furthermore, we held 5,423 trials and 17,487 Grand Jury proceedings. On the average, an Assistant United States Attorney handled 129.9 cases in fiscal year 1984.

In 1986, an appropriation of \$333,468,000 and 5,851 positions has been requested for the U.S. Attorneys. This represents no programatic increase in positions. The increase of \$16,294,000 is only for net uncontrollable adjustments of our 1985 budget and includes a \$596,000 reduction in our management and administration effort.

Within our uncontrollable adjustments, the U.S. Attorneys have requested \$14,653,000 for the annualization of 706 positions provided or to be provided in 1985. These positions are for the support of tax prosecution units, Law Enforcement Coordinating Committee/ Victim Witness Coordinators, a thirteenth Organized Crime Drug Enforcement Task Force region, support of new federal judgeships and the Comprehensive Crime Control Act of 1984 (CCCA). The positions for the support of new judgeships and the Comprehensive Crime Control Act are being requested as a supplemental to our 1985 request.

The number of positions needed to support the new judgeships was based upon current workload data and staffing levels, considered along with historical data indicating an attorney/district court judge ratio of 1:3 and on attorney/appeals court judge ration of 2:3. Additionally, we considered the need for increased travel

requirements and the need to staff previously unstaffed branch offices to accomodate new judges.

These positions required to support the CCCA were used to implement those sections of the Act which significantly increased our litigation and enforcement responsibilities. Because of expanded jurisdiction and sentencing appeal rights, we anticipate a five percent increase in violent crime workload, a seven percent increase in non-violent crime workload, and a five percent increase in appeals filed.

The Bail Reform Act portion of the CCCA requires extensive hearings on a defendant's custody prior to trial and pending appeal. An estimated 2,100 defendants will be parties to such hearings just as a result of increased Organized Crime Drug Enforcement Task Force activity.

The CCCA imposed new responsibilities upon United States Attorneys to collect all criminal fines and assessments in an estimated 40,000 additional cases annually.

Finally, as part of the administration's war on drugs and organized crime, the civil and criminal forfeiture laws and procedures have been revised and expanded, resulting in a significant increase in litigation associated with these seizures.

We would be happy to answer any specific questions you may have have at this time.

DEPARTMENT OF JUSTICE  
STATEMENT OF THE DIRECTOR  
EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS  
WILLIAM P. TYSON

BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE,  
THE JUDICIARY AND RELATED AGENCIES

Mr. Chairman and members of the subcommittee:

I am pleased to have the opportunity to appear before you on behalf of the 1985 supplemental request for U.S. Attorneys and U.S. Marshals. The total increase request is for \$25,948,000 and 934 positions. The request for the U.S. Attorneys is \$17,810,000 and 560 positions, and for the U.S. Marshals Service \$8,138,000 and 374 positions.

My role today will be to present the portion of the supplemental request which pertains to the U.S. Attorneys. I will be followed by Mr. Stanley Morris, Director, United States Marshals Service, who will appear on behalf of the Marshals Service, the Support of the U.S. Prisoners appropriation, and the Assets Forfeiture Fund.

An increase of \$17,810,000 and 560 positions has been submitted for this current fiscal year. We have requested \$12,945,000 and 398 positions in support of the new judgeships, \$1,800,000 and 162 positions to implement the Comprehensive Crime Control Act of 1984, and \$3,065,000 for the relocation of the U.S. Attorney's Office in District of Columbia.



JUDGESHIPS

In 1984, Congress enacted the Bankruptcy Amendments and the Federal Judgeships Act, providing for the creation of 85 new judgeships beginning this year. Our current data on caseload and staffing levels as well as our historical data indicate that an attorney/district court judge ratio of 3:1 and an attorney/appellate judge ratio of 2:3 is required to process cases. Using this ratio, we have determined that 199 additional attorneys with equal clerical support is needed to handle the work generated by 61 new district judgeships and 24 new appellate judgeships. Of these positions, 125 of the attorneys will be engaged in criminal litigation while the remaining 74 attorney positions will be involved in civil litigation.

CCCA

The Comprehensive Crime Control Act of 1984 provides support of various chapters within the Act including sentencing reform forfeiture, fines reform, and other measures. The U.S. Attorneys are already beginning to feel the impact of the Act--particularly in the areas of criminal collections and pre-trial detention. Therefore, we have requested \$1,800,000 and 162 positions (of which 36 are for attorneys and 126 are support positions) to implement the Act.

D.C. Office

Finally, we have requested \$3,065,000 to complete the relocation of the District of Columbia's U.S. Attorney's office. A site for the

move is under consideration, and we are in the process of negotiating renovation costs for the first phase of the move. This request is for the moving and renovation costs for the balance of the office as well as the costs associated with the rental of the space.

The U.S. Attorneys are requesting to rescind \$352,000 from their 1985 budget appropriation. We will achieve this reduction by reducing travel, transportation of things, printing, and consulting services.

We would be happy to answer any specific questions you may have at this time.

## FILLING OF THE JUDGESHIPS

Mr. DWYER. Thank you, Mr. Tyson. How many judgeships do you assume will be filled during fiscal year 1985 regarding your 1985 supplemental request?

Mr. TYSON. Mr. Chairman, I am unable to give you an estimate of the number. I understand it is not moving as fast as the Administration would like. But we would estimate in general that at least 50 percent would be filled in 1985.

Mr. DWYER. What assumption was used in the \$12,945,000 figure.

Mr. DEHAAN. It was one-half year.

Mr. DWYER. So you assumed one-half of the 398 positions would be filled.

Mr. DEHAAN. That's correct. One of the assumptions was that, at the same time, we would need to be undergoing training and orientation for personnel in our own offices, also.

## RELOCATION OF DISTRICT OF COLUMBIA OFFICE

Mr. DWYER. You are also requesting \$3,065,000 to complete the relocation of the District of Columbia U.S. Attorney's Office. How is that move progressing? Has the Public Works Committee approved the GSA proposal that was in that area, the prospectus?

Mr. DEHAAN. No, the prospectus is scheduled for presentation and discussion on the third of April.

Mr. DWYER. The third of April?

Mr. DEHAAN. Yes.

Mr. DWYER. How are the negotiations with the landlord going? Are they moving along at the present time?

Mr. DEHAAN. I believe they are. Obviously, GSA is conducting the negotiations. Renovations on the first phase are proceeding to the point where it looks occupiable at the end of this month.

## 1985 PAY COSTS

Mr. DWYER. What are the total pay requirements for the U.S. Attorney's associated with the 3.5 percent increase granted federal civilian employees for fiscal year 1985? How much is it costing you to give the 3 1/2 percent raise in 1985?

Mr. DEHAAN. I will have to submit the answer for the record.  
[The information follows:]

## COST OF THE 3.5 PERCENT PAY RAISE IN 1985

The recent 3.5 percent pay raise will cost of the U.S. Attorneys \$5,557,000.

## 1985 PAY ABSORPTION

Mr. DWYER. How much of this amount are you absorbing in your present 1985 budget?

Mr. DEHAAN. \$5,477,000 is the amount we are not absorbing, sir.

Mr. DWYER. \$5,477,000 is that the total amount?

Mr. DEHAAN. Five million plus dollars.

Mr. DWYER. You are not absorbing?

Mr. DEHAAN. Absorbing?

Mr. DWYER. How much are you absorbing was my question?

Mr. DEHAAN. We are proposing to absorb——

Mr. TYSON. We will provide that.  
 Mr. DWYER. Thank you.  
 Mr. TYSON. Yes, sir.  
 [The information follows:]

#### AMOUNT OF ABSORPTION OF 1985 PAY INCREASE

Of the total cost of the recent pay raise the U.S. Attorneys will absorb \$80,000.

#### PROPOSED RESCISSION

Mr. DWYER. You are proposing a rescission of \$325,000. In what areas will that rescission take place?

Mr. TYSON. This will be in the management and administration area in my own office, Mr. Chairman. We will have to reduce some of the activities of the evaluation of the U.S. Attorney's offices, which we have on a 12 to 18-month cycle. We will have to take some additional measures in my own office to reduce travel, transportation, printing, consulting services, things of that sort.

I would like to add at this point that we have one of the smallest ratios of headquarters to field ratios of any agency in the Department. But that is really the only place we can take these things without impacting on our litigation activities.

#### EVALUATION PROGRAM

Mr. DWYER. You mentioned the reevaluation program. How much of a delay will there be in the reevaluation of the U.S. attorneys?

Mr. TYSON. I don't know exactly, but it will mean we will have to stretch it out some, possibly from once every 18 months to once every two years. A large portion of that cost of course, is travel costs for the teams that travel to make these evaluations.

#### COMPUTATION OF JUDGESHIP REQUEST

Mr. DWYER. Mr. Early.

Mr. EARLY. You are requesting an increase of 398 attorney positions and clerical positions, 199 FTE workyears, and \$12,945,000 in fiscal year 1985 to support the new federal judgeships. How did you arrive at this number of positions and level of resources?

Mr. TYSON. The principal basis, Congressman Early, is our experience regarding the number of attorneys it takes to serve the judges. Our experience indicates that it takes three lawyers at the trial level to serve each judge. At the appellate level it takes two lawyers for every three judges.

Mr. EARLY. These federal judges, from testimony I've heard, seem to be doing very well. We keep giving them additional positions for judgeships. In Massachusetts, the attorneys sit in Boston taking care of the judges, in my opinion, primarily, before the people.

The law states that judges should be spread out. They should be here. They should be there. But they just don't seem to be. They come in here for more positions in their budgets. Does the 1986 increase in the budget for the U.S. Attorneys primarily reflect the annualization of the program?

Mr. TYSON. Yes, sir.

Mr. EARLY. In the supplemental you are requesting?

Mr. TYSON. Yes, sir.

#### HUNG JURIES

Mr. EARLY. With regard to U.S. Attorneys, is there a procedure for hung juries for retrial or no retrial or what course of action will be taken? I asked this of Mr. Meese last week.

Mr. TYSON. We do not have anything in the U.S. Attorneys manual or written policies and procedures. These attorneys from the field might comment.

Mr. EARLY. You think we should have something? Personalities get involved in these prosecutions. I am not sure that the defendants in all cases get a fair shake. I think it is more difficult to get acquitted today than it is to be convicted. I find it disturbing. When a U.S. attorney suggests before he even gets out of a trial that they are going to retry—without even going back to his office and discussing it with his personnel. What about the personal hardship involved or the amount of money it is costing the taxpayer?

In this particular case, the newspaper reports it is 11 to 1 for acquittal. You go through a retrial, in which hundreds of thousands of dollars are spent and the jury concludes with an acquittal. During that process, when the jury is out again, the U.S. Attorney suggests that he will retry and retry 10 times if there are hung juries. That is not responsible to me, Mr. Tyson.

Mr. TYSON. Congressman Early, I could not agree with you more that extemporaneous comments—combative comments of lawyers in the heat of battle or immediately thereafter—can well be inappropriate. Such a comment as you describe would certainly be inappropriate. No decision to retry a case should be made without careful and deliberate consideration by senior officials. I could not agree with you more on the point.

Mr. EARLY. I brought it up with Mr. Meese, and he will get back to me. But I would also appreciate it if you would get back to me on that particular trial in Massachusetts because I am only going by newspaper reports. The first one was a hung jury in which the newspaper reported it was 11 to 1 for acquittal; it was retried. During the second one, after 10 hours of deliberation, or X number of hours, the U.S. Attorney and defense were being interviewed by media. The defense attorney suggested that it might end up in another hung jury. The U.S. Attorney said he would retry, and if necessary retry again, and if there were ten hung juries, retry 10 times. If you would please let me know about this case.

Mr. TYSON. Yes, sir.

[The information follows:]

#### HUNG JURY IN MASSACHUSETTS CASE

The specific case which concerned Congressman Early was the prosecution of Mr. Vincent Piro. Mr. Piro was indicted because he accepted \$5,000 from an undercover FBI agent (as a down payment on a \$25,000 payment) to insure that legislation would be passed which would permit a liquor license to be issued to the company employing the agent. Three weeks subsequent to the \$5,000 payment Mr. Piro returned the money, apparently explaining that he had seen the error of his ways. The USAO believed the case remained strong enough to prosecute. The first trial of Mr. Piro ended in a hung jury. During the first trial Mr. Piro held daily news conferences to discuss the day's event. It is possible that Mr. Piro or his defense attorney may have made the statement referred to by Congressman Early. In any event, the United

States Attorney categorically denies that he or any member of his staff ever made the statement quoted by Congressman Early.

#### FUTURE NEEDS OF U.S. ATTORNEYS

Mr. EARLY. Do you envision need for additional increases in the near future in the U.S. Attorney's budget?

Mr. TYSON. From the figures I gave toward the end of my statement, we are already seeing a substantial increase in workload due to the Comprehensive Crime Control Act. There are certain increases that are taking place.

The investigative agencies are projecting increases into the 1987 timeframe. If this does, in fact, mature, more work will be brought to the U.S. attorneys. If we are to service that workload, then additional resources will be needed. I don't know the figures, yet. We have only just begun to work on our next budget cycle.

But I would say that with the increased workload that is reasonable to anticipate that we will be needing some additional resources.

Mr. EARLY. I believe it was during the hearing with the Attorney General that Mr. Conte brought up the fact that the Justice Department's budget has increased by 62 percent since 1980. That is staggering. We are asking everyone else to tighten their belt with the exception of the Justice Department.

#### GRAND JURY PROCEEDING COMPARED WITH TRIALS

Mr. Tyson, I have some problems with page 27 of the justification; not problems just some inquiries. The statistics indicate that grand jury proceedings increased between 1983 and 1985-1986, while the number of trials decreased. I would think that as the number of grand jury decisions increased the number of trials would increase.

Mr. TYSON. That doesn't necessarily follow, if I may comment.

Mr. EARLY. No, it doesn't follow, but one would suspect it would follow.

Mr. TYSON. It is the difference in the kinds of cases, Congressman Early. If you have a large number of simple bank robberies, stolen car cases and so forth, as was the case 10 or 15 years ago, then you have very short grand jury proceedings, and you have a large number of cases. The number of cases are then roughly equivalent to the number of grand jury indictments that come out, so that there is a correlation.

Mr. EARLY. Sure.

Mr. TYSON. But when you get into investigative grand juries where it takes sometimes months, sometimes years, to complete a complicated drug conspiracy investigation, financial conspiracy, white collar crime case, or political corruption case, then you have very lengthy grand jury proceedings to produce one case over a period of months or a year. Grand juries of that type do not produce large quantities of cases, but they do produce high quality cases.

Mr. EARLY. The point I want to make, I really think there is a stigma with an indictment that the defendant pays a price for. I really think the U.S. Attorney should be very deliberate. And I

think they have in my particular State. But I wouldn't want to see that trend broken.

I see here, from your justification, that in 1983 you had 17,765 jury proceedings. You have gone up over 2,000 for 1986—the estimate for 1986. And on trials you had almost 5,000 in 1983, and you are estimating you will have 3,800 trials. I don't want that to be a conclusion of just going to grand jury too easily. What type of assurances do we have?

I sometimes think that the more people we give you, Mr. Tyson, in many cases, they think they have to justify their salaries in grand jury proceedings.

Mr. TYSON. Well, we do have safeguards within the U.S. Attorney's Office for indictment, reviews and very careful usage of resources. The evaluation that our own staff makes, inquiries into the use of the prosecutive power and so forth. The point you make is certainly one I agree with, that we should not abuse the resources we have. We feel we do have safeguards built into the supervisory structure of the U.S. Attorney's Offices.

#### NUMBER OF HUNG JURIES

Mr. EARLY. I thought you had safeguards in retrials, too. How many hung juries have you had, Mr. Tyson?

Mr. TYSON. We do not have that figure. I was asked that figure myself. We are trying to find out. It is not something that happens very frequently. Our data base just doesn't have anything on hung juries. We may have something on mistrials. We are trying to check into that. We might well have to survey the U.S. Attorneys and ask them how many, if that becomes important.

Mr. EARLY. It wouldn't be a difficult thing to do, would it?

Mr. TYSON. No, because I don't think there have been that many. We would ask every U.S. Attorney how many they have had in the last four years.

Mr. EARLY. Sure.

Mr. TYSON. I imagine every U.S. Attorney would know that.

Mr. EARLY. What are there, 94 U.S. attorneys, 94 districts.

I would think it would be very easy to find out, for the last three years, how many mistrials, how many hung juries there have been, and how many of those have been retried. I would be curious about that.

Mr. TYSON. We can supply that, yes, sir.

[The information follows.]

#### NUMBER OF HUNG JURIES

Our Office of Management Information Systems and Support, after running special programs, was able to provide the following information regarding the number and disposition of hung juries during fiscal years 1982, 1983 and 1984. Please note that we are unable to provide additional disposition information for those cases which were still pending at the close of the fiscal year. Likewise, we are unable to provide information regarding the number of mistrials.

Fiscal year	Total number of hung juries <sup>1</sup>	Pled guilty	Retrials		Dis- missed	Pending EOY
			Convict- ed	Acquit- ted		
1982.....	38	7	4	2	6	19
1983.....	22	3	4	1	1	13
1984.....	26	7	3	3	2	11

<sup>1</sup> Data for each fiscal year is discrete, for example, no carryovers of case dispositions from previous years are indicated.

## CIVIL LITIGATION BREAKDOWN

Mr. EARLY. What portion of the total civil litigation do the following categories constitute—torts, determination of social security benefits, tax refunds, contract violations, discrimination cases and habeas corpus. What is the percentage of suits in these categories initiated by private parties?

If you want, you can provide that for the record.

Mr. TYSON. We will provide that  
[The information follows:]

## BREAKDOWN OF CIVIL LITIGATION INTO CATEGORIES

These categories comprised 33,022 of our 100,901 civil cases filed in 1984—or approximately 33 percent of our civil caseload. Nearly 97 percent of these categories are initiated by private parties. A more detailed breakdown follows:

Case type	Number filed	Percent of total
Torts .....	5,081	5
Social security benefits .....	20,709	21
Tax refunds .....	2,678	3
Contracts violations .....	340	1
Discrimination .....	1,266	1
Habeas corpus .....	2,948	3
Total .....	33,022	33

<sup>1</sup> Less than 1 percent.

## LITIGATION OF SOCIAL SECURITY ENTITLEMENT

Mr. EARLY. The justification states that the U.S. Attorneys handle an almost unmanageable amount of litigation arising from reviews of social security entitlements. How many cases are pending? This is also for the record. How many do you usually handle during the year? What percentage of the workload is attributed to these cases?

Mr. TYSON. Yes, sir.

[The information follows:]

## WORKLOAD OF LITIGATION SOCIAL SECURITY ENTITLEMENT

At the end of FY 1984, 36,852 social security appeals were pending. During this same year, 22,768 appeals were filed, but we were able to terminate only 13,749. This figure, however, represents 16.5 percent of our civil terminations and was second only to General Claims.

## HUNG JURY

Mr. EARLY. Mr. Chairman, I have a lot more questions, but I have used my 10 minutes.

Mr. DWYER. Mr. O'Brien?

Mr. O'BRIEN. Mr. Tyson, with respect to the business of retrials, do you have a set policy regarding U.S. attorneys in their several offices? Do they follow the same procedure if, let's say, Mr. Early was trying a case and turned out to have a hung jury, how would you go about determining whether you try it again?

Mr. TYSON. We do not have a written Department of Justice directive or policy or provision in the "U.S. Attorneys Manual." If I may, I would ask Mr. Brown to give you an example of how he would approach it as U.S. Attorney if he had a hung jury.



Mr. BROWN. In 15 years I have had a few hung juries. My policy, and I think the policy followed by almost all the U.S. Attorneys would be to evaluate the case. If possible, find out what the jury vote was. In some districts it is very difficult to find out exactly what the vote of the jury was.

Mr. O'BRIEN. That is assuming everybody tells you the truth, too.

Mr. BROWN. That is true. Sometimes the judge will ask the jury as he discharges them what the vote was. That is generally pretty reliable. My general policy is to try to look dispassionately at the case, to assess why the jury was unable to reach a conclusion. If I conclude that there was a failure of proof, that the government can rectify and present a stronger case which will likely result in conviction, I would be inclined to retry it.

If, on the other hand, it is a matter where all the proof that we had to produce was produced and a new trial is not going to produce any more evidence and it wasn't a situation where it was 11 to 1 for conviction and one juror just got back in the jury room, as happens occasionally, and said, "I am not going to vote to convict anybody," I wouldn't retry that case.

It is very difficult to lay down a firm guideline. If the jury splits 5 to 7, will you retry or not? I think you have to carefully analyze why the jury was unable to reach a verdict and see whether or not you are going to have a different result.

Mr. O'BRIEN. It comes pretty much as a judgment call to you after the thing is over. Is that correct?

Mr. BROWN. Yes.

Mr. O'BRIEN. As to whether or not the case would be retried?

Mr. BROWN. I think in the end it comes down to a judgment call. In my office, we don't announce that to the press as the jury is filing out. I wouldn't say that wouldn't happen, but I think in most cases, my assistants are told just to say it is being studied.

Mr. O'BRIEN. Name, rank and serial number.

Mr. BROWN. And I have my policy of no comment until I announce something.

Mr. EARLY. Would you just yield?

#### DISCRETION TO RETRY HUNG JURY CASES

Mr. O'BRIEN. Sure will.

Mr. EARLY. But you wouldn't draw a conclusion after coming out of the courtroom, when you have had a hung jury after a number of hours, you wouldn't conclude until you at least get back to the office to analyze all the information, would you?

Mr. BROWN. Personally, I would not.

Mr. EARLY. No, but I mean, Mr. Brown, that is just your opinion, as far as procedure at the Justice Department it is within the autonomy of each individual U.S. attorney?

Mr. BROWN. I think the Justice Department has used a fairly careful selection process in selecting the U.S. Attorneys. We have guidelines of fairness and other matters that I think generally apply. I don't think we are without guidance in the matter because I think it would be very difficult to put down a firm rule.

Mr. EARLY. My suggestion was it shouldn't be just that person. It should be analyzed by someone independent.

Mr. O'BRIEN. Mr. Early, if I can reclaim my time, isn't that the point; that it isn't basically the decision of the deputy trying the lawsuit?

Mr. BROWN. That's right.

Mr. O'BRIEN. He has to come back to the home office, and I say this is what happened and this is the way I look at it. Now, do we try it again or not?

Mr. BROWN. That's right, the decision whether to retry it would be mine. If I happened to try the case before, I would consult with my senior assistants to ensure that I wasn't jumping the gun.

Mr. EARLY. Would you yield again, because I am getting a different impression? I am of the impression, from Mr. Meese that the U.S. Attorney did do that. I thought in the response to Mr. O'Brien, there is someone else that reassesses these. Mr. Meese says it is up to the U.S. Attorney totally. If he wants to suggest walking out of the courtroom after the first trial as they did in Boston, that he can do that. Now, is it reviewed somewhere or isn't it reviewed somewhere?

Mr. O'BRIEN. Let me add to your question. I think where we are mixed up is that the U.S. Attorney doesn't try all the lawsuits. He has got competent staffers who try some of them and can't handle them all. If things go away, the individual trial attorney doesn't have the discretion himself to say whether they will try again, is that correct?

Mr. BROWN. I will yield to Ms. Munsell.

Ms. MUNSELL. I hear you being concerned about a quick decision. Sometimes a jury can be out for a long time and there is an assessment process going on any time a jury is out more than a few hours. It very much would be an evaluation of the specific case, the situation, the evidence, how it went in. It has got to be a judgment call.

Mr. EARLY. That is my point. I want judgment. I want it evaluated. But, you know, in this case, George, it was the prosecuting attorney, representing the U.S. Attorney, along with the U.S. Attorney, who walked out of the courtroom after a trial that went for several days, and said we will retry.

There was no assessment, no evaluation, no trying to find out what the jury was split on. Then he also went on to say, George, as that hung jury case was retried—the defendant, after spending half a million dollars, again according to the newspaper accounts, was acquitted. But during that, he said to the media, prior to the jury coming back, that if it is hung, we will retry again and if there are 10 hung juries, we will retry 10 times. That is the point I am making, George. I think that is wrong.

Mr. O'BRIEN. I tend to agree with you. I think it makes clear the moral imperative that you never get in trouble by keeping your mouth shut. It is my impression that while I totally agree with you, in that particular case, that is not the rule, I don't believe. At least it is not the rule in the Northern District of Illinois, and that I am somewhat familiar with.

I think that is generally true throughout, but it is always a judgment call. But it goes right back to the U.S. Attorney. In your case, Mr. Early, I could only agree with you. But in most cases it doesn't happen that way.

Mr. BROWN. Mr. Early, I would also point out that U.S. Attorneys are not the last word. An appeal can always be taken higher up in the Department on a judgment call such as that.

#### DEPARTMENT OVERVIEW OF RETRIAL DECISIONS

Mr. EARLY. Appeal for retrial?

Mr. O'BRIEN. Within the Department.

Mr. BROWN. Yes. You can go to the head of the Criminal Division.

Mr. EARLY. And ask the Criminal Division to overturn the U.S. Attorney?

Mr. BROWN. Sure.

Mr. TYSON. That is not as strange as you might suppose.

Mr. BROWN. No.

Mr. TYSON. There are defense attorneys from time to time, I don't know with what frequency, who appeal to the Department with respect to proposed prosecutions or reprosecutions of U.S. Attorneys. Sometimes the U.S. Attorneys either change, modify or reverse their preliminary judgment.

If I may comment Mr. Early, the conduct that you are concerned about would appear, on the face, of it to be inappropriate. We are making inquiry now into the appropriateness of what was done and said in that situation. While there is no rule that says that every decision for a retrial has to come to the Department of Justice in Washington, there is probably no rule that indicates that every judgment of that type has to be made by the U.S. Attorney.

It would be my judgment that in all but the very largest U.S. Attorney's offices, where they may have maybe 100 or more 100 assistant attorneys, the supervisory structure, (first assistants, deputies and senior supervisors), would make the judgment on retrial. In the other offices about 45 or 50, where we have less than 15 lawyers, the U.S. Attorney would make that judgment himself or herself. But in the larger offices, certainly no judgment of that type would be made by the individual trial attorney who conducted the trial. It would be made by either the U.S. Attorney or a senior supervisor in the office. I can't prove that but I would be willing to test my judgment against the system on that one.

#### DEBT COLLECTION

Mr. DWYER. Mr. O'Brien?

Mr. O'BRIEN. With respect to debt collection, on the sunny side of the question, you did pretty well last year, if I recall correctly. How much did you collect in 1984, do you know?

Mr. TYSON. I think we have the figures available.

Mr. O'BRIEN. Fine.

Mr. TYSON. It has been going up since about 1981, \$369 million. It is up from—where was it two or three years ago, \$310 million in 1983.

Mr. O'BRIEN. Are you able to recoup some costs out of those receipts?

Mr. TYSON. If you mean do we pay for ourselves, the cost of operating the U.S. Attorneys office is some \$300 million odd and we collect \$399 million. In that sense we feel—

Mr. O'BRIEN. You must be glad I asked that question.

Mr. TYSON. We are paying for ourselves right. Even refunding a little.

#### INCREASED WORKLOAD

Mr. O'BRIEN. Is there a substantial increase in the number of civil and criminal cases this year?

Mr. TYSON. Significant increase in what kind?

Mr. O'BRIEN. Well, in both civil and criminal cases that the Federal government has filed.

Mr. TYSON. There is an increase of several thousand in the criminal cases. We are up from the 31,243 cases filed in 1983, to 33,030 in 1984. We estimate 36,000 will be filed in 1985. These are criminal cases so the increase is going from a low, about 9 or 10 years ago, of 26,000 to the amount we are projecting, almost a 10,000 case increase by 1987.

On the civil side, defensive litigation is some 60 percent of all civil litigation, and it is increasing. It has gone over 100,000 cases, which was maybe 40,000 or so 10 years ago. Most of these, however, are not cases brought by the government, but brought against the government. These are cases we have to defend.

Now, most of the cases that are brought on behalf of the government are the debt collection cases that you alluded to where we are seeking to collect money on behalf of the government.

Mr. O'BRIEN. Thank you, gentlemen. Thank you, Mr. Chairman.

#### MANAGEMENT AND ADMINISTRATION SAVINGS

Mr. DWYER. Mr. Tyson, in your 1986 budget request, you propose a reduction of \$569,000 for the management and administration of the United States attorneys. Now, how are you going to absorb that and still—

Mr. TYSON. Well, it is the same as I mentioned earlier in the reduction on the 1985. If we have to do it, we have to do it. Essentially, we are taking it out of headquarters.

Mr. DWYER. What will that do with your evaluation? You said you were going from 16 to 24 months. Now are you not going to reevaluate.

Mr. TYSON. Well, I would hope we can. We really can't tell exactly. We have been asking every one of my senior staff people to come in with recommendations on where we can cut back. Legal education is always a possibility. We hate to do that. We have a significant legal education program.

We have to take it out of the headquarters to avoid taking it away from the people who have to appear in court every day and litigate cases. So it is essential, when I am told to take it out of my hide, I take it out of my hide, not their hide.

#### U.S. TRUSTEE PROGRAM

Mr. DWYER. Mr. Early.

Mr. EARLY. Mr. Tyson, with regard to the Trustee Program which I brought up with the Attorney General, Mr. Meese, he, you know, wasn't critical of it; and suggested or suspected we would put

the money back in. Has the department submitted reauthorization legislation.

Mr. TYSON. I must defer to the director of the U.S. Trustees and maybe the Assistant Attorney General for Administration on that one.

Mr. STANTON. I am Thomas Stanton, Director of the U.S. Trustee Program. The program is authorized through September 30 of 1986. The bankruptcy amendments last year were separately authorized.

Mr. EARLY. Have you submitted authorization or reauthorization for inclusion of that?

Mr. STANTON. To my knowledge, Mr. Early, the Department has not.

Mr. EARLY. If not, Mr. Tyson, have you submitted authorization for an alternative?

Mr. TYSON. I really can't speak for the Trustee Program.

Mr. WALLACE. I am Acting Assistant Attorney General for Administration, Larry Wallace. The Department has prepared its authorization bill. We expect to submit it to the Congress soon after the Easter recess.

Mr. EARLY. Is that with reauthorization of the Trustee Program.

Mr. WALLACE. I would expect that it would not be in there, sir, because of the President's decision with regard to the budget.

Mr. EARLY. If it is not, do you have alternative legislation, authorization legislation for bankruptcy?

Mr. WALLACE. We are studying the question now inside the Department as to what other alternatives the Department might propose.

Mr. EARLY. I have problems with what you are doing here. As you know, two studies, the ABT study and an independent study by the Justice Department both suggested it was working fairly well. I understand there is a bill in the other body to make it universal, to expand it beyond 18; is that right?

Mr. STANTON. That's right. Senator DeConcini has a bill. I don't know if it has been introduced yet, but it has been circulated to anybody who has anything to do with bankruptcy.

Mr. EARLY. Did you submit a budget request for 1986?

Mr. STANTON. Yes, we did.

Mr. EARLY. What was the amount of the request and how many positions did you request.

Mr. STANTON. The amount of the request was—that was approved by the Department, Mr. Early?

Mr. EARLY. No. The original submission. Why don't you just provide it for the record.

[The information follows:]

#### U.S. TRUSTEES 1986 BUDGET REQUESTS

[Dollars in thousands]

	Positions	Amounts
Submitted to the Department.....	185	\$10,576
Submitted to Office of Management and Budget.....	179	10,894

## FUNDING LEVELS FOR U.S. TRUSTEES

Mr. EARLY. Would that have been enough for—sufficient resources to staff all offices.

Mr. STANTON. No, that request was just for the pilot districts.

Mr. EARLY. Okay. How much would be required to carry out the 1985 program level in 1986 including uncontrollable increases?

Mr. NEILL. \$9,378,000.

Mr. EARLY. Would that include uncontrollable increases?

Mr. NEILL. Yes, it would.

Mr. EARLY. I see a pay supplemental has been requested for the Trustee Program. Will this cover the total pay raise and related requirements?

Mr. NEILL. There would be about a 12 1/2 percent absorption.

Mr. EARLY. How would that be absorbed, do you know?

Mr. NEILL. I would assume by lapsing some positions.

Mr. STANTON. I don't think we would be lapsing positions. It would have to be coming out of our office also. Out of the headquarters—

Mr. EARLY. Do you have any unfilled positions?

Mr. STANTON. No, we don't. Our position level has not increased since 1980.

## SPACE COSTS FOR U.S. ATTORNEYS AND MARSHALS

Mr. EARLY. Why are you requesting a \$1.8 million increase for SLUC?

Mr. DEHAAN. Basically because of new office space that goes with new employees.

Mr. EARLY. Can you be more detailed?

Mr. DEHAAN. Each time we add a full-time permanent employee, we add a certain amount of space for the facility to handle that employee.

Mr. EARLY. Wait a minute. You can't tell me you hire one guy and we are going to take another phone booth of space, are we? In your justifications you might be, but in practicality, when you hire so many people, it doesn't mean you are going to get more space, does it?

Mr. DEHAAN. Yes, sir, most of our offices are already fairly crowded. Every time we add employees we usually add space with them.

Mr. EARLY. Is that what that \$1.8 million is for?

Mr. DEHAAN. Yes, sir.

Mr. EARLY. How much additional space does that bring?

Mr. DEHAAN. It seems to me we cost it at about \$23 a foot on a national basis.

Mr. EARLY. Tell me what is going to happen if the Committee doesn't give you that money, but gives you the personnel.

Mr. DEHAAN. We are going to have some problems. That is the best answer. If we add five or six positions to an office and the office already has fairly heavy utilization, we do things like put people in the libraries or we reduce their already limited space down to where they have got really small space.

Mr. EARLY. Thank you, Mr. Chairman.

Mr. DWYER. Mr. Smith?

Mr. SMITH. No questions.

Mr. DWYER. Mr. Tyson, thank you very kindly. We may have a few more questions for the record. We will submit them.

Mr. TYSON. Yes, sir.

Mr. DWYER. Thank you.

[The questions for the record and the answers submitted thereto follow:]

## QUESTIONS SUBMITTED BY CONGRESSMAN DWYER

## UNITED STATES ATTORNEYS

FY 1986 Budget RequestQUESTION:

In your statement you indicate that the FY 1986 budget request for the U.S. Attorneys represents no programmatic increase in positions. What about your anticipated workload for fiscal year 1986 -- are you expecting no increase apart from the new responsibilities under the Comprehensive Crime Control Act for which you have requested positions in the supplemental?

ANSWER:

In FY 1986, the U.S. Attorneys are projecting an increase on the criminal side of the docket of 1,440 cases filed, 762 Grand Jury proceedings, and 116 trials. On the civil side, they are projecting an increase of 4,446 cases filed and 95 trials. Much of the increased criminal workload will be moved with the annualized positions requested as a FY 1985 supplemental for the Comprehensive Crime Control Act of 1984. They also anticipate that the remainder of their increased criminal workload need, as well as their entire increased civil workload, will be met through the annualization of the supplemental request for FY 1985 for support of new judgeships.

OCDE Task ForcesQUESTION:

Can you give us a status report on the Organized Crime and Drug Enforcement task forces -- how are they working and what problems, if any, have developed, and what efforts are you taking to solve such problems?

ANSWER:

The Task Forces, having just completed the second year of operation, exceeded original expectations. By the end of 1984, the 13 Task Forces had initiated 804 investigations against drug trafficking organizations. At the close of the year, 3,468 defendants had been indicted. Fines, seizures, and forfeitures rose above \$291,000,000. The OCDE Task Forces continue their emphasis on dismantling high-level drug trafficking organizations, denying the traffickers use of their assets and placing them in jail.

Task Force cases, according to reports of the Federal agents and prosecutors, are proving to be larger than the typical case found in the U. S. Attorneys' offices. Generally, they have a higher success rate, which results in larger fines and longer sentences. Task Force resources have also attracted better cases - those cases that require long-term development.



Chief among the positive results of the program has been the high degree of cooperation that has been developed not only among Federal agents and prosecutors but among state and local officials as well. This multi-agency emphasis, has in many instances made it possible to pursue cases that before may have been dropped due to the inavailability of adequate long-term resources and staffing.

Refinement of the program continues. Quality cases are being emphasized. The quantitative measurements - how many arrested, how many indicted, etc., traditionally the measure of success in many instances - are no longer considered the sole indicator of progress. Task Force members want to put high-level violators in prison and, in the Task Force structure, are being given the tools to do so. As the Task Force investigations reach the indictment and trial stage and as the post trial and appellate requirements take up more of the agents'/prosecutors' time, the rate at which new investigations can be brought into the system may have to be reduced. To determine what effect this post-indictment load may have on the Task Force resources, a caseload study has been commissioned and its results are expected in late Spring, 1985.

QUESTION:

Last year funding for the OCDE program was provided directly to the participating agencies in the Justice Department and other government agencies. How is this decentralized funding concept working -- does it detract from the concept of a separate, uniquely identifiable OCDE program and the ability of the Attorney General to respond quickly to changing drug trafficking patterns?

ANSWER:

The decentralization of OCDE funding for Justice agencies which began in FY 1985 has not had an adverse impact on the Department's ability to respond to the problem of drug trafficking. There continues to exist a cooperative posture among all participating OCDE agencies. OCDE resources are openly identified in each agencies budget and the information is discussed with OCDE program managers. The high-level support that the OCDE Task Force program receives from each agency ensures positive communication and coordination in the Task Force effort. The ability of the Attorney General to respond quickly to changing drug trafficking patterns has in no way diminished.

QUESTION:

According to the GAO report dated December 9, 1983, the Task Force resources in the first year of the program were widely dispersed among 72 judicial districts. Could such a wide distribution result in a dilution of Task Force resources to the detriment of the program?

ANSWER:

The dispersion of Task Force resources over various judicial districts has not diluted the total effort. The Task Forces were designed to be decentralized units, operating out of a core-city district where each program could be tailored to meet the problems

unique to that region. Evidence supports that despite a diffusion of resources, each Task Force maintains open-lines of communication with its counterparts in other regions. Task Forces willingly have provided assistance to their counterparts. For example, prosecutors from one Task Force have assisted in prosecutions in other Task Forces. Agencies have lent willing support to their counterparts in other regions. In short, there is no indication that dispersing resources had diluted the effectiveness of the program. Indeed, decentralization has seemed to have been effective in encouraging ongoing Task Force-to-Task Force communication and discussion. Again this is facilitated by the field's understanding that the program enjoys high-level support in all Washington agencies.

QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

U.S. ATTORNEYS

QUESTION:

What was your original request as submitted to OMB?

ANSWER:

The U.S. Attorneys' request to the Office of Management and Budget was \$355,917,000 and 6,166 positions, a program increase of 405 positions, 322 workyears, and \$23,993,000. This request included 115 attorneys (53 for Criminal Litigation, 46 for Civil Litigation, and 16 for Organized Crime Drug Enforcement) and 290 support positions.

QUESTION:

How many positions are you requesting this year for the Victims-Witness program?

ANSWER:

The U.S. Attorneys are requesting no additional positions for the Victim-Witness program for this year.

## QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

## U.S. ATTORNEYS

U.S. TrusteesQUESTION:

Who will assume the duties presently performed by the U.S. Trustees, which are recommended for phase-out?

ANSWER:

The Department's position has long been that the U.S. Trustees program should be transferred to the Judiciary. If the Trustees program was phased out, Judicial Branch officials could assume the Trustees' duties. However, the Department continues to study the entire range of issues concerning the U.S. Trustees program with a view toward developing long term recommendations.

U.S. AttorneysQUESTION:

With regard to the additional responsibilities of the Comprehensive Crime Control Act of 1984, how can you meet these obligations and still request a net decrease of \$11,561,000 in funding for these programs?

ANSWER:

The Department is requesting funds in FY 1985 to implement the Comprehensive Crime Control Act. The annualized cost of this program is reflected in the 1986 base.

The Administration is requesting a net program decrease of \$11.480 million in 1986 for the U.S. Attorneys and Marshals appropriation. Of this decrease, \$9.378 million reflects the Administration's proposal to discontinue the pilot U.S. Trustee program at the end of 1985 unless specific action is taken by the Congress to continue it. The remaining decrease of \$2.102 million is requested in accordance with the government-wide management initiative to reduce costs in the administrative area. Specifically, the U.S. Attorneys and the U.S. Marshals Service will employ a combination of measures to reduce costs in their management and administrative programs. Included in the steps to be taken will be the reduction of costs for travel, transportation, printing, consulting services, training and field evaluations. For the U.S. Marshals, they will attempt to accomplish the reduction in programmatic areas which will not have a direct impact on the accomplishment of their operational mission. These areas include the Equal Employment Opportunity program, personnel, health and safety, system support, and audit and compliance.

It should be noted that the requested appropriation for FY 1986 is \$478,057,000. This amount is considerably higher than the \$431,114,000 enacted to date and even the \$466,496,000 that the Department would get if its FY 1985 supplemental requests are approved.

MONDAY, APRIL 1, 1985.

**UNITED STATES MARSHALS SERVICE**

**WITNESSES**

**STANLEY E. MORRIS, DIRECTOR**

**GARY MEAD, ASSOCIATE DIRECTOR FOR ADMINISTRATION**

**JAMES A. SHEALEY, ASSISTANT DIRECTOR FOR FINANCIAL MANAGEMENT**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

Mr. DWYER. We shall next consider the fiscal year 1986 budget request for the three appropriation items administered by the United States Marshals Service. Salaries and expenses, support of United States prisoners and the Assets Forfeiture Fund. The request for these three items totals \$222,829,000. We shall also consider a fiscal year 1985 program supplemental of \$4,887,000 for salaries and expenses, and the fiscal year 1985 program supplemental request to transfer \$3,683,000 out of support of U.S. prisoners to other Department appropriations.

The Committee earlier considered supplemental requests of \$3,251,000, for salaries and expenses and \$5 million for the Assets Forfeiture Fund. We shall insert at this point in the record the justification material submitted in support of these requests.

[The justification material follows:]

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graph TD
    NSC[NATIONAL SECURITY COUNCIL] --> SECDEF[OFFICE OF THE SECRETARY OF DEFENSE]
    NSC --> SECSTATE[OFFICE OF THE SECRETARY OF STATE]
    NSC --> SECNAV[OFFICE OF THE SECRETARY OF THE NAVY]
    NSC --> SECARMY[OFFICE OF THE SECRETARY OF THE ARMY]
    NSC --> SECNORTHATLANTIC[OFFICE OF THE SECRETARY OF THE NORTH ATLANTIC TREATY ORGANIZATION]
    NSC --> SECDEFENSE[OFFICE OF THE SECRETARY OF DEFENSE]
    NSC --> SECSTATE[OFFICE OF THE SECRETARY OF STATE]
    NSC --> SECNAV[OFFICE OF THE SECRETARY OF THE NAVY]
    NSC --> SECARMY[OFFICE OF THE SECRETARY OF THE ARMY]
    NSC --> SECNORTHATLANTIC[OFFICE OF THE SECRETARY OF THE NORTH ATLANTIC TREATY ORGANIZATION]
    NSC --> SECDEFENSE[OFFICE OF THE SECRETARY OF DEFENSE]
    NSC --> SECSTATE[OFFICE OF THE SECRETARY OF STATE]
    NSC --> SECNAV[OFFICE OF THE SECRETARY OF THE NAVY]
    NSC --> SECARMY[OFFICE OF THE SECRETARY OF THE ARMY]
    NSC --> SECNORTHATLANTIC[OFFICE OF THE SECRETARY OF THE NORTH ATLANTIC TREATY ORGANIZATION]
  
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Approved: S. J. [Signature] Date: 31, 1973  
 Special Agent in Charge

U.S. Marshall Service  
Salaries and Expenses, U.S. Attorneys and Marshals  
Summary of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request			Congressional Appropriation Action on 1985 Request			1985 Supplemental Appropriation			1985 Proposed Revision			1985 Anticipated		
	Pos.	WT	Am.	Pos.	WT	Am.	Pos.	WT	Am.	Pos.	WT	Am.	Pos.	WT	Am.
1. Witness security.....	264	242	\$18,982	-2	-2	-4258	...	...	...	...	...	...	262	240	\$19,053
2. Fugitive investigations.....	518	590	33,397	28	18	1,709	...	...	...	...	...	...	648	659	38,537
3. Judicial security.....	339	337	19,461	2	...	-113	...	...	...	...	...	...	318	357	20,810
4. Prisoner support services.....	162	195	3,519	...	...	-40	-152	-155	-83,419	...	...	...	...	...	...
5. U.S. Marshals training.....	11	11	1,166	...	...	-4	-11	-11	-1,162	...	...	...	...	...	...
6. Handling of Federal prisoners.....	743	796	36,757	20	15	406	...	...	...	102	69	4,177	624	945	880
7. Organized crime drug enforcement.....	13	13	677	...	...	...	...	...	...	...	...	...	13	13	689
8. Executive direction & control.....	49	49	2,652	...	...	-24	-49	-49	-2,608	...	...	...	...	...	...
9. Administrative services.....	75	76	11,682	...	...	202	-75	-76	-11,884	...	...	...	...	...	...
10. Management & administration.....	...	...	...	...	...	...	...	297	291	19,153	...	...	297	291	19,287
Total.....	2,161	2,269	126,303	44	31	1,878	...	...	...	374	140	8,138	2,535	2,480	139,949

Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Actions

Congressional actions include the following: a Congressional reduction of \$95,000 to the uncontrollable increase for SUT; a transfer of eight positions and \$26,000 to ADOS for Court Security Officers Program administration; a transfer of \$67,000 from ADOS for courtroom holding cell SUD costs; reduction of two positions and \$12,000 from the request of the Witness Security Program for the threat to life of witnesses; \$15,000 from the request of the Prisoner Support Services for the threat to life of witnesses; an increase of 54 positions and \$1,000,000 for the Fugitive Investigations and Court Orders, Judicial Security and Handling of Federal Prisoners programs.

Supplementing

The Financial Support Services, U.S. Marshals Training, Executive Direction and Control, and Administrative Services programs were consolidated into the program entitled Management and Administration in a September 20, 1984 notification to the Congress.

1985 Supplemental Requested

The 1985 program supplemental totaling 374 positions and \$8,138,000 consists of the following: 59 positions and \$1,516,000 for the Maritimes and Federal Judiciary Act; and 315 positions and \$6,622,000 for activities resulting from the Comprehensive Crime Control Act of 1984.

Proposed Revision

In accordance with Section 2901 of the Budget Reduction Act of 1984, \$516,000 is proposed for revision in the travel, transportation, public affairs, and printing and publications areas.

U.S. Marshals Service  
Salaries and expenses, U.S. Attorneys and Marshals  
Summary of Requirements  
(Dollars in thousands)

	Perma. Pos.	Work- years	Amount
<u>Adjustments to base:</u>			
1985 as enacted.....	2,186	2,285	\$129,800
1985 funding provided in 1984 supplemental.....	19	15	381
Total enacted.....	2,205	2,300	130,181
1985 Pay supplemental requested:			
Increased pay costs.....			Amount
Increased FICA costs.....			\$2,231
Amount absorbed.....			-91
Net pay supplemental.....			2,146
1985 Program supplemental.....	374	140	6,138
Proposed Rescission for Deficit Reduction Act.....			216
1985 appropriation anticipated.....	2,579	2,440	139,969
Savings resulting from management initiatives.....			-3,021
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....			174
Annualization of 1985 pay increases.....			837
Annualization of 462 additional positions approved in 1985.....		234	6,410
Within-grade increases.....			632
Health benefits costs.....			194
Federal Employees' Compensation Act (FECA) - Workers' Compensation.....			117
GPO printing costs.....			11
GSA recurring reimbursable services.....			14
Federal Telecommunications System (FIS).....			334
Department telecommunications.....			4
Automated legal research and litigation support services.....			3
General pricing level adjustment.....			522
Foreign allowances.....			4
Total uncontrollable increases.....	234	234	9,256
Decreases:			
Federal Employees' Compensation Act (FECA) - Unemployment Benefits.....			-32
Rate decrease for full-field investigations.....			-57
Total decreases.....			-89
1986 base.....	2,579	2,674	146,095

	1984 Actual	1985 Appropriation	1986 Base	1986 Estimate	Increase/Decrease
	Perma. Pos.	Perma. Pos.	Perma. Pos.	Perma. Pos.	Perma.
<u>Estimates by budget activity</u>					
U.S. Marshals.....	2,132 2,270 \$121,205 2,579 2,440 \$139,949 2,579 2,674 \$146,095 2,579 2,674 \$144,589 ...				-41,506



U.S. Marshals Service  
Salaries and expenses, U.S. Attorneys and Marshals  
Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1984 as Budgeted			1984 Actual			1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Witness security.....	262	240	\$18,541	262	215	\$18,317	262	240	\$19,053	262	240	\$18,961	262	240	\$18,961	...	...	...
Positive investigations	508	584	32,889	508	650	32,896	684	659	38,537	684	760	40,907	684	760	40,907	...	...	...
& court orders.....	330	329	19,011	330	329	18,782	378	357	20,810	378	395	21,368	378	395	21,368	...	...	...
Judicial security.....	743	796	34,331	743	792	33,917	945	880	41,573	945	984	44,394	945	984	44,394	...	...	...
Handling of Federal	...	...	...	...	...	...	13	13	689	13	13	686	13	13	686	...	...	...
prisoners.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Organized crime drug	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
enforcement.....	289	284	17,910	289	284	17,693	297	291	19,287	297	292	19,779	297	292	18,273	...	...	-1,506
Management and	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
administration.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total.....	2,132	2,233	122,682	2,132	2,270	121,205	2,579	2,440	139,949	2,579	2,674	146,095	2,579	2,674	144,589	...	...	-1,506
Reimbursable Workyears..	53	53	2,286	53	53	2,305	54	54	2,704	54	54	2,728	54	54	2,728	...	...	...
Total FTS Ceiling.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Other Workyears	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Holiday.....	4	4	312	4	3	297	4	4	323	4	4	323	4	4	323	...	...	...
Overtime.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Total compensable	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
workyears.....	2,602	2,602	2,605	2,605	2,605	2,605	2,821	2,821	3,055	3,055	3,055	3,055	3,055	3,055	3,055	...	...	...

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U.S. Marshals Service  
Salaries and expenses, U.S. Attorneys and Marshals

Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity: U.S. Marshals	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Anticipated			Perm.			Perm.			Perm.	
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY
Witness security.....	262	240	\$19,053	262	240	\$18,961	262	240	\$18,961	...	...
Fugitive investigations and court orders.....	684	659	38,537	684	760	40,907	684	760	40,907	...	...
Judicial security.....	378	357	20,810	378	385	21,368	378	385	21,368	...	...
Handling of federal prisoners.....	945	880	41,573	945	984	44,394	945	984	44,394	...	...
Organized crime drug enforcement.....	13	13	685	13	13	686	13	13	686	...	...
Management and administration.....	297	291	19,287	297	292	19,179	297	292	18,273	...	...
Total .....	2,579	2,440	139,949	2,579	2,814	146,095	2,579	2,814	144,569	...	...

This budget activity provides vital support to the Federal Government's administration of justice system in the areas of operational support and protection of the federal judiciary such as court security; execution of fugitive investigations and court orders; seizure, management and disposal of assets subject to judicial forfeiture; protection of key government witnesses; custody and transportation of unsentenced federal prisoners; liaison with the OCS Task Force; contracting with local detention facilities for the housing of unsentenced prisoners; and enforcing federal law under the direction of the Attorney General.

Activity: U.S. Marshals	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Anticipated			Perm.			Perm.			Perm.	
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY
Witness security.....	262	240	\$19,053	262	240	\$18,961	262	240	\$18,961	...	...

**Long-Range Goal:** To administer protection and maintenance services for the Department of Justice's Protected Witness program for witnesses and potential witnesses and their dependents whose lives are in jeopardy as a result of their testimony against organized crime.

**Major Objectives:**

To protect endangered witnesses and their families who have been approved for program services by the Criminal Division's Office of Enforcement Operations.

To ensure that endangered witnesses may testify against individuals being tried for organized and other violent criminal activities without fear of retribution.

To assist the witnesses in becoming self-sustaining through relocation under a new identity.

**Basic Program Description:** This program addresses the need for protective security for government witnesses testifying against any person alleged to have participated in an organized or related violent criminal activity. The Witness Security program, authorized by P.L. 98-473, the Comprehensive Crime Control Act of 1984, encourages witnesses to testify against persons involved in organized crime by providing protection and maintenance for the witnesses and their families. Without such a program, potential witnesses would not likely come forth to testify because such an action would jeopardize the safety of the witness and family.

Authority is provided in 28 USC 524 to use appropriations of the Department of Justice for the payment of compensation and expenses of witnesses and informants, all at the rates authorized or approved by the Attorney General or the Assistant Attorney General for Administration. In addition, Department of Justice OAD Order 2110.42, dated July 19, 1983, prescribes the procedure for establishing a person as a protected witness and places with the U.S. Marshals Service the responsibility for the security and maintenance of witnesses and their dependents. Enactment of the Comprehensive Crime Control Act of 1984 also commits program resources to provide physical security for secure child visitation between program children and non-program parents. Additionally, protected witnesses are required by the Act to pay court-ordered child support for children not relocated under the Witness Security program. This will also have a workload effect on this program.

The Report of the Senate Judiciary Committee on Organized Crime Control concludes that leaders of organized crime have been extremely successful in escaping punishment. Tampering with witnesses through intimidation was reported as the most effective method used by organized crime in obtaining acquittals or dismissals. The Witness Security program is vital in the effort to combat organized and related violent crime in the United States.

Accomplishments and Workload: The workload of the Witness Security program is presented in the following table:

Item	Estimates		
	1983	1984	1985
Newly accepted witnesses.....	333	290	319
Witnesses funded/maintained.....	993	945	1,165
Average months witnesses are funded.....	13 to 17	13 to 17	13 to 17
Total witness workload.....	4,482	4,772	5,000
Total participant workload*.....	10,606	11,160	11,668
			12,176

\*includes principal witnesses and family members

High-level organized crime figures continue to seek the assistance of the Witness Security program. Leroy "Mickie" Barnes, a former narcotics kingpin, in U.S. v. Fisher, et al., is expected to continue his testimony against his former cohorts who control the largest drug organization in this country. The Harlem "company", known as "Murder Incorporated", was formerly run by Barnes and six other mobsters. Barnes' cooperation has led to the conviction of 14 heroin importers who have ties to organized crime elements and as many as 40 convictions are expected. Twenty-six others are awaiting trial on an array of felony charges.

Other major investigations implicating such groups as the Black Liberation Army, the Weather Underground, the May 19 Communist Organization, the Winter Hill gang and the Republic of New Africa, have led to many new participants in the Witness Security program who have or will testify on acts of murder, terrorism and robbery. In Puerto Rico, a series of police corruption trials will continue using the testimony of five protected witnesses for cases involving contract murders, arson, narcotics importation, and extortion. Also in Puerto Rico, protected witnesses will be produced for the trial of members of a terrorist group known as the "Macheteros". This group has claimed responsibility for the murder of nine unarmed U.S. Navy personnel and the LANS rocket-bombing of the field offices of the FBI in October 1983 and the USNS in January 1985, among other crimes. In Miami, it is expected that the trials of several high-ranking members of large cocaine-importation cartels will occur utilizing the testimony of two current protected witnesses and an unknown number of prospective protected witnesses. At least one case involves members of the same group which has been held responsible for the murder of the Columbian Minister of Justice. This same group has been linked with the Harold Rosenthal drug importation organization. Other noteworthy cases pending in federal and state courts throughout the country include a Boston organized crime case, U.S. v. Augliulo, et al., with seven defendants who are the top echelon of New England organized crime and four witnesses; and, Ken Eto, who will testify in judicial and police corruption trials involving the Grayford investigation. Mr. Eto was to testify in January 1985, in U.S. v. Camplise and Castibazo but both defendants were murdered in Chicago prior to the trial.

The conversion of sensitive Witness Security program documents and files into an automated microfilm retrieval system, Phase I, is anticipated to be completed during 1985. The full automation of the Microfilm Information System is expected to be implemented in Phase II. This system will then facilitate rapid retrieval of information and protect against possible destruction of the hard copy files by fire.

Word processors will be placed in major Witness Security program field locations to be used to prepare required reports. The ADP disks prepared in the field will be utilized by headquarters for direct entry into Witness Security program records. This system will save substantial time keying in statistics and report information thereby improving the accuracy of the reporting data.

In 1984, the Marshala Service received 200 new witnesses, reactivated 102 witnesses for funding because of new threats or other reasons, and funded an average of 306 witnesses per month. Additionally, the Witness Security program provided protection and/or funding for 945 principal witnesses, or a total of 2,103 persons including family members. Since 1971, 11,160 witnesses and family members have participated in the Witness Security program.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Form.	NY	Amount	Form.	NY	Amount	Form.	NY	Amount	Form.	NY	Amount
Fugitive Investigations and court orders.....	684	659	\$38,537	684	760	\$40,907	684	760	\$40,907	...	...	...

Long-Range Goal: To ensure the timely investigation and arrest of fugitive felons, other federal violators, and foreign fugitives in the United States; to ensure that all requests for international extraditions are carried out; to provide a timely response to all major injunctions; to ensure timely service of process and other court orders; and, to maximize the "net return" from departmental asset forfeitures by employing sound business practices.

#### Major Objectives:

To initiate criminal investigations to apprehend fugitive felons and other federal violators, and to produce prosecutive or arrest reports on all felony arrests.

To respond to requests from foreign countries for assistance to investigate and apprehend foreign fugitives in the United States.

To coordinate, fund and implement the extradition of federal fugitives back to the United States, and in some instances return foreign fugitives to the requesting country.

- To provide a highly trained civilian force, known as the Special Operations Group (SOG), to respond to emergency situations including civil disturbances, terrorist incidents and hostage situations; to provide law enforcement and security assistance to other federal and state agencies designated by the Attorney General; and, to enforce major injunctions of the U.S. courts.
- To provide timely service of process, court orders and warrants in support of the Federal Judiciary.
- To seize assets subject to judicial forfeiture to the Federal Government.
- To provide efficient management and prompt disposal of assets seized.

**Base Program Description:** The primary purpose of this program is to conduct criminal investigations in order to locate and apprehend federal fugitives, i.e., escapees, bond violators, and parole and probation violators; and to investigate other related crimes. The Marshals Service is also responsible for the execution of arrest warrants on behalf of federal agencies without the power of arrest. Through INTERPOL-U.S., National Central Bureau, the Marshals Service is responsible for the investigation and apprehension of foreign fugitives in the United States as well as international extraditions.

The Comprehensive Crime Control Act of 1984 is effecting this program by increasing the investigation workload required to prosecute recaptured fugitives and by establishing stringent penalties for pre-trial release violations. This added emphasis on investigative reports produced by Marshals Service Inspectors adds a new dimension to the base program workload. The Crime Control Act of 1984 will increase the number and complexity of government criminal forfeitures and seizures. The Act codifies into CSA and RICO criminal statutes many of the legal concepts which have been traditionally recognized in civil forfeiture law. For example, the "relation-back" doctrine, which states that property is forfeited at the time of the commission of the illegal act, now applies to criminal forfeitures. Thus, the interest of the United States in the asset vests at a point in time that may be well before the asset is actually seized. This change in criminal forfeiture law has significant asset management ramifications--for example, affecting the payment of mortgages and liens incurred between the illegal act and seizure of the property by the Department of Justice. With the creation of new judicial authorities pursuant to the Act, this program must ensure that court-ordered seizures, restraining orders, and trustee arrangements are effectively carried out. The Assets Forfeiture Fund has the potential to become the most advanced and effective tool in the Federal Government's fight against organized crime.

The number of government civil seizures--each requiring service of a warrant in rem--increased by 58 percent from 1980 to 1984. More importantly, with the implementation of the OCSG initiatives targeting "the fruits of crime," the workload for each execution of a warrant in rem has increased in number and complexity. OCSG seizures--such as seizures of real property and businesses--tend to be more publicized and complicated. For example, the seizure in Eastern Texas of a 118 acre ranch with 176 show horses valued at \$4.7 million is counted as a single seizure, but its property management ramifications are profoundly different from the seizure of a car.

Under the terms of a Memorandum of Understanding agreed to by the FBI, DEA, INS, and Marshals Service and signed by the Associate Attorney General in March 1984, the Marshals Service established the pilot National Asset Seizure and Forfeiture (NASAF) program. NASAF field units have been strategically located in each OIG Task Force city (except San Diego), and in Seattle. Under the direction of the headquarters program management staff, NASAF field offices provide support services and technical assistance to the OIG Task Force and Marshals Service district personnel in managing assets seized judicially and providing for the overall management, control, and disposition of assets seized by other Department of Justice agencies as well as management of the Department's Assets Forfeiture Fund.

The NASAF program will emphasize pre-seizure planning among federal investigators, prosecutors, and custodial managers involved in the asset forfeiture process, increase attention to property management concerns in the preparation of court orders defining actions to be taken in the management and disposition of seized assets, and develop sound, businesslike policies and procedures governing the management and disposition of seized assets.

The Special Operations Group, a highly trained civilian reaction force which responds to emergency situations, is included in this program. This group is well trained in such diverse areas as: mass arrest techniques; control of large civil disorders; confrontation management both urban and rural; airborne operations involving insertions and extractions; scuba, anti-aircraft and explosive ordnance device operations; and, a host of other capabilities. Specialized survival training is provided by this unit at the SOO Training Center in Camp Beauregard, Louisiana.

This program conducts the Fugitive Investigation Strike Team (FIST) operations. A FIST operation is a "task force" concept, e.g., a large group of federal, state and/or municipal law enforcement officers saturating a city or region where fugitives seeking refuge are contributing to a high crime rate. This program furthers the Administration's commitment to remove dangerous, violent criminals from our streets.

This program is responsible for the service of the majority of process emanating from the federal courts and regulatory agencies, including major injunctions.

The Marshals Service provides law enforcement assistance in nuclear weapons movement through reimbursable agreements with the Joint Cruise Missile Project Office of the Department of Defense and the U.S. Air Force.

Whenever possible, general or specific assistance is provided to state and local law enforcement agencies. The Marshals Service is supportive of a nationally coordinated and cooperative effort against crime, at all levels of government.

The principal authorities governing the activities of this program are found in 11 USC 11; 28 USC 569-570; 18 USC 3193 and the Speedy Trial Act of 1974 which mandates due diligence in the prompt execution of warrants. The Comprehensive Forfeiture Act as a part of the Comprehensive Crime Control Act of 1984, strengthens departmental authority to seize, manage and dispose of assets subject to both administrative and judicial forfeiture.

Accomplishments and Workload: The workload of the Fugitive Investigations and Court Orders program is presented in the following table:

Item	Estimates	
	1984	1985
Fugitive felon warrants received.....	11,500	12,000
USMS clears of fugitive felon cases.....	11,779	10,000*
Warrants received (all categories).....	75,687	79,105
USMS clears (all categories).....	71,103	64,200
Warrants unexecuted end of year (all categories).....	34,087	36,921
Government property seizures.....	3,320	5,014
Private property seizures.....	2,051	2,000
Process received.....	481,521	420,880
Process served.....	427,000	378,800

This workload has been updated since preparation of the galley.

Special emphasis is continually placed on the investigation and apprehension of those fugitives with histories of violence, organized crime or narcotics connections. The Service received 10,354 fugitive felon warrants, and a remarkably high total of 9,959 fugitive cases were cleared. In 1984, the Marshals Service cleared 54,165 total warrants.

The Marshals Service has completed seven FIST operations. They have been in Miami, Florida; Los Angeles, California; the New York City metropolitan area; the District of Columbia; the State of Michigan; the State of California and the most recent FIST covered eight Northeastern States simultaneously. This latest FIST operation termed "the largest manhunt in history" concluded in November 1984 after eight weeks, netting 3,309 felony arrests. The average cost per arrest for this FIST operation was \$779. This brings the total number of arrests for all seven FIST operations to 7,446 of which 823 were federal warrants and 6,619 were other jurisdictional warrants, over a cumulative period of 62 weeks. Even after seven FIST operations, the average cost per arrest is still remarkably low at approximately \$786. With the entire State involved in an operation, a spirit of cooperation and coordination develops that is far above the normal day-to-day police function.

During all of 1984, changes to Rule 4, Federal Rules of Civil Procedure, were in effect which relieved the Marshals Service from serving process on behalf of private parties except in pauper, admiralty and court ordered cases. However, an average of 10,000 pieces of private process continue to be handled each month, which is significant in that to accomplish this workload, workdays have been diverted from other areas to supplement the funded base.

In 1984, the Marshals Service successfully coordinated and completed 121 international extraditions. In a remarkably cooperative move, the government of Colombia has agreed to the extradition of many fugitives from the United States seeking refuge in



that country. This, coupled with the investigative efforts of the ODG Task Force effort, will not only cause an increase in the number of extraditions but the unusual degree of danger will result in increased expenses for the Marshala Service. Death threats against American agents by factions within the Colombian populace have necessitated extremely tight security measures requiring additional personnel while in both Colombia and the United States.

For 1984, the El Paso Intelligence Center (EPIC) reported an increase of 18 percent in Marshala Service activity over 1983. The EPIC watch responded to 2,968 requests for information from Marshala Service investigators to locate fugitive felons. In 1984, the Marshala Service had completed over 3,600 transactions.

The establishment of the Marshala Service's "15 Most Wanted" list which identifies high profile federal fugitives for which Marshala Service has primary responsibility, has proven to be a valuable law enforcement tool. Since the program began, 14 individuals have been arrested. Information concerning the "15 Most Wanted" is distributed to all Marshala Service offices and to other law enforcement agencies, and investigations are coordinated among many offices. These special efforts were used in 1984 to arrest, among others, the following criminals: William Joseph Dougherty, armed and considered dangerous and sought in connection with numerous bank robberies; Marvin Dale Berry, prison escapee serving a 20-year sentence for armed bank robbery; and Alan Wayne Hurley, escapee from federal custody who had a history of shooting at police to avoid arrest.

Requirement studies have been completed to provide the Marshala Service with its own investigative automated data bank. This system, which will provide investigators with a wealth of investigative information concerning Marshala Service fugitives in an orderly and timely manner, is expected to be operating before the end of 1985. The system will also provide important management data.

The use of paid confidential informants in Marshala Service criminal investigations is proving very successful. In 1984, 43 arrests were made using a total of \$69,576.

The establishment of the SOG Training Center at Camp Beauregard, Louisiana in 1984, provided the Marshala Service with a facility to train operational personnel in Officers Survival Techniques and related advanced law enforcement training courses. Approximately 300 personnel including U.S. Marshals, Chief Deputy U.S. Marshals, Supervisory Deputy U.S. Marshals and Deputy U.S. Marshals were trained at this facility. Interagency training was provided (on a reimbursable agreement arrangement) to the U.S. Border Patrol who are in the process of forming a 100 person tactical response unit. Fifty percent of this unit has been trained and formed with the balance to be completed in 1985. In addition, training and operational assistance has been provided to the U.S. Probation and Parole Officers, U.S. Fish and Wildlife Service, U.S. Park Police, classified military units, and other local, State and federal agencies.

SOG hosted a Hostage Negotiations Seminar for operational personnel during December 1984 with additional seminars planned during 1985. Also, advanced law enforcement survival training is planned. The State Department has requested that SOG assist with the training of foreign law enforcement personnel through the Anti-Terrorism Assistance program. SOG assisted district field offices and Marshala Service programs by providing intelligence and technical support. SOG personnel staff members

provided valuable assistance to the Micronesian Chief of Police Conference held in the Republic of Palau, Western Caroline Islands.

All of the initial 45 positions identified as needed to establish a pilot NASAP program were filled by October 1984. Initial training for this staff occurred during the first two weeks of August 1984. The first draft of the NASAP manual was distributed at the August training session. Special attention has been given to the development of uniform procedures for handling and disposing of seized cash.

Negotiation among seizing agencies during the early part of 1984 led to agreement among the agencies on common data elements to be used in maintaining and communicating data about seized properties. The most notable increase in workload in the past several years is the rise in government seizures. In 1984, there was a 17 percent overall increase in seizures executed by the Marshalls Service; government seizures, i.e., cases in which the United States is plaintiff, increased twice that rate or about 33 percent during 1984. Most of this increase is attributable to OIG prosecutions. More detailed and useful workload measures are under development to track the increasingly complex workload associated with more sophisticated government seizures and forfeiture actions. A single government case can generate an enormously expensive, complicated and time-consuming workload. For example, the seizure of the DMK ranch outside of Dallas, Texas, in March 1984 would previously be counted as a single seizure. Over \$10 million worth of property was seized in this single case, though, including a 118 acre ranch; almost 200 quarter horses and appaloosa show horses; a dozen cars, trucks and trailers; jewelry, gold bars and furs. In another case in Madison County, Montana, \$2.5 million in assets were seized, including a logging company, 26 vehicles, and 425 firearms. Beginning October 1, 1984, an automated inventory and case tracking system for seized assets was implemented by the 13 NASAP field units covering all Marshalls Service districts.

On a case-by-case basis, NASAP will continue to provide technical assistance and support in the management of major and complex seizures. For example, in the DMK Ranch seizure, NASAP and district personnel assisted in "arresting" and securing the property, conducting inventories, arranging for appraisals and adequate ranch management services.

These seizures require not only substantial efforts during and after the seizure to secure, inventory, appraise, provide appropriate storage for, and otherwise manage the properties, they also involve increasingly more extensive pre-seizure planning among participating investigative, prosecutive and seizing agencies and the courts. NASAP pre-seizure guidelines emphasize the need to ensure that the investigative agency and U.S. Attorney are careful and deliberate in establishing the scope of the planned seizure and that a comprehensive inventory and plan for post-seizure management is drawn up, so that post-seizure management problems are avoided or minimized. The seizure in January 1985 of the assets of a multimillion dollar marijuana distribution operation based in Leesburg, Virginia was a good example of the need for, and benefits of, pre-seizure planning. In that case, the goal of protecting seized property from needless post-seizure deterioration or mismanagement, as well as valuable experience in coordinating the efforts of a range of agencies were successfully achieved. NASAP's efforts will focus primarily on more complicated seizures of real property and businesses, and on high volume categories of seized property. Also, NASAP personnel began to accept properties seized administratively by the FBI and not targeted for official use.

1985 Appropriation Anticipated 1986 Base 1986 Estimate Increase/Decrease

	Pos.	MY	Amount	Pos.	MY	Amount	Pos.	MY	Amount
Judicial security.....	378	357	\$20,810	378	385	\$21,368	378	385	\$21,368
									...

Long-range Goals: To ensure the integrity of the federal judicial system by providing security at all places in which federal judicial business is conducted; to eliminate fear of intimidation, retaliation, or bodily harm on the part of federal judges, attorneys, other federal officers and trial participants; and to provide personal security for all threatened federal judicial officials and Federal prosecutors.

Major Objectives:

To continuously assess the status of security where federal judicial business is conducted and, where necessary to enhance the security level with additional personnel and systems.

To provide Deputy U.S. Marshals for security at sessions of court and judicial proceedings as necessary.

To provide a sufficient force of personnel, security equipment, and systems to ensure the personal safety of threatened individuals to whatever extent required.

To maintain the most up-to-date security equipment and systems.

To manage the Court Security Officer program to ensure that security is maintained in federal judicial facilities.

Base Program Description: This program is responsible for addressing the national problem of protecting and maintaining the integrity of the federal judicial system in the face of mounting and more violent attacks. This entails establishing and maintaining an acceptable level of security for all federal judicial facilities throughout the nation, and ensuring the personal safety of the more than 3,000 federal judges, magistrates and attorneys, as well as other judicial officers, employees, jurors, witnesses, spectators and other trial participants. Judicial facilities include courtrooms, hearing rooms, chambers, jury and witness rooms, offices of court officials and their staffs. Personal security is provided for federal jurists and other court officers as a result of covert or open threats of harm. The extent and duration of personal protection depends on the severity of the threat as determined by the U.S. Marshal through the assessment by the Marshals Service's Court Security Inspectors, FBI investigation, or intelligence obtained from other federal, State, or local law enforcement agencies.

The demand for heightened security requirements has increased due, in part, to the recent federal criminal enforcement initiatives targeted at organized crime, drug related violent crime, and white collar crime. In addition, key civil cases involving such potentially volatile matters as school desegregation, tax evasion, large insurance claims, bankruptcy, and property

seizures continue to increase. The result is that there has been an escalation in the number of incidents targeted against court facilities and judicial proceedings. The recent increases in the number of federal judges and magistrates along with the Administration's present thrust against drug related crime and terrorism will continue to increase the demands on available resources.

Enactment of the Comprehensive Crime Control Act of 1984 (P.L. 98-473), further elevated security demands on this program, necessitating sophisticated courtroom security measures during bail and bond hearings beyond those ever previously experienced due to the marked increase in number and duration of these hearings. Under the Act, which became effective October 12, 1984, defendants may be determined a danger to the community, denied bail and remanded into Marshalls Service custody. These defendants, formerly eligible for release on bail prior to passage of the Act, now also face longer mandatory sentences if convicted. Numerous and lengthy detention appeal hearings now ensue, creating a significant new workload for the Court Security program.

The Bankruptcy Amendments and Federal Judgeship Act of 1984 increases the number of federal district judges by 61 and the number of appellate judges by 24.

Based upon historical experience dealing with high threat trials, threats against the judiciary, protective service assignments, judicial conferences and courtroom protective services, the Service and DOJISD anticipate an increase in the Judicial Security program workload, including approximately 40,000 additional trial bench hours and an additional 1,000 trials.

The Marshalls Service is required to attend all court proceedings where there is a defendant in custody or where there is a reasonable expectation of violence or disruption. Any trial or court proceeding holds the potential for disruption and the Marshalls Service must respond when needed to ensure that adequate security is provided to the judiciary.

The Judicial Facilities Security program was established as a result of an agreement between the Department of Justice, the General Services Administration, and the Administrative Office of the U.S. Courts. This agreement provides that the Marshalls Service assumes primary responsibility for protection of the Federal Judiciary. A Delegation of Procurement Authority from the General Services Administration, signed by the Attorney General on December 3, 1982, authorized the Marshalls Service to contract for court security services and the procurement, installation, and maintenance of security systems for judicial areas nationwide. This function is carried out by a new contracting branch within this program with all funds utilized for contracting provided by the judiciary. In 1985, 13 reimbursable positions are dedicated to this program.

The assessment of threats is an increasingly important function within the Marshalls Service, one which from an organizational standpoint had been conducted in a fragmented manner, as each program area affected - Judicial Security, Witness Security, Warrant Enforcement Operations - responded to its specific needs. To address this, a centralized Threat Analysis Group was established to provide information concerning threats to the personal safety of USMS personnel and of those who are under the protection of the Service. The Threat Analysis Group supports operations involving judicial security, high-threat trials, witness security, and enforcement operations (especially the execution of warrants involving violence-prone groups). In

addition to producing formal requested threat assessments, the Group issues advisories concerning known or potential threats, and responds to informal threat-related inquiries. Thus, the Group performs a critical service, providing a clearer picture of threat situations so that better tactical and resource-management decisions may be made. Centralizing threat assessment responsibilities enables the development of professional expertise in the processing and analysis of critical threat information, an indispensable tool in countering highly-organized dangerous groups which violently resist enforcement efforts and judicial proceedings against them.

Accomplishments and Workload: The workload of the Judicial Security program is presented in the following table:

Item	Estimates		
	1983	1984	1985
Criminal trial bench hours.....	91,313	91,134	101,648
Sensitive trials.....	230	262	251
Civil trial bench hours.....	172,991	178,622	202,829
Other proceedings - bench hours.....	125,583	131,100	150,693
Magistrate proceedings.....	362,362	394,723	425,975
Court Security Officers (CSO's)			
In place.....	94	548	600
Judicial conferences attended.....	40	29	40
Technical assistance provided.....	408	427	453
Security systems projects:			
Required.....	150	409	751
Completed.....	90	68	501
Death threats received.....	116	153	200
Protective services details.....	50	60	65

The most significant accomplishment attributed to the Judicial Security program is the fact that, in 1984, no federal judge, magistrate, or judicial officer was injured as a result of an attempted assault. This occurred while the number of violent incidents involving State and local jurists continue to escalate at a frightening rate. In all, during 1984, Marshals Service personnel maintained security in an increasing number of court proceedings which included all federal criminal trials, selected civil proceedings, magistrate hearings involving criminal matters, and grand jury proceedings.

In 1984, the Marshals Service provided security in approximately 7,400 federal criminal trials, an increase of 11 percent over 1983. However, this figure does not adequately reflect the changing complexity and length of those trials, which is attributable to the Administration's expansion of law enforcement initiatives, especially in the areas of drug trafficking and organized crime. This has significantly increased the Service's already strained workload requirements. In 1984, drug statute prosecutions accounted for 30 percent of all federal criminal trials. That figure increased to approximately 40 percent when drug-related trials are also included, such as cases in which the defendant is charged with extortion, racketeering, conspiracy, tax fraud, or weapons offenses.

Drug-related criminal trials are longer and necessitate a higher level of security protection than non drug-related trials. The latest data compiled by the Administrative Office of the U.S. Courts reveals that 40 percent of drug trials heard before a jury lasted four or more court days. This is due, in part, to the legal complexities of prosecuting a drug case, and the legal resources available to most of the defendants in such cases. Examples of particularly long trials in which the Service provided constant security include: the Wilt narcotics case in the Southern District of New York which lasted 89 days; an extortion case involving alleged Cleveland mob boss James Licavoli which consumed 71 days; the narcotics case involving Pablo Alonso which lasted a total of 61 court days; the John DeLoe drug trial which lasted a total of 108 days and the Rosenthal drug trial which lasted 59 days and alone required 35 security personnel at a cost of \$207,000.

Threats on the judiciary have continued to increase in severity. In 1984, there were 153 threats against judicial officials which amount to a 32 percent increase over 116 threats documented in 1983. Threats received during the first quarter of 1985 have increased 90 percent over the first quarter of 1984. In 1984, the average cost per protective detail resulting from a threat was over \$15,000. This figure includes overtime and travel costs for four out-of-district deputies and a court security inspector during a two week detail. When a threat is received in a district office, the marshal immediately notifies the Court Security Division and the FBI. The district then provides 24-hour protection for the threatened individual and alerts security personnel in the court building where the federal official presides. The Court Security Division assigns an inspector to coordinate intelligence activities, and provides technical assistance and state-of-the-art equipment if necessary. In cases which are particularly complex, the Threat Analysis Group is requested to assess the situation. After a period of 72 hours, out-of-district personnel may be required to augment the security detail. If the situation progresses and becomes more dangerous, a mobile command post is often established and limited local law enforcement assistance is requested.

Coupled with the need for the Service to maintain security at criminal trials is the equally important and potentially volatile task of providing security at U.S. magistrate hearings involving criminal matters and grand jury proceedings. In all, the number of criminal matters before magistrates increased eight percent in 1984.

In addition, although the Service is not mandated to provide security support at all civil trials, it does provide security at trials in which a potential exists for violence, or when ordered by the court. In 1984, the Service maintained security during civil proceedings involving all prisoner petition cases; selected civil rights cases; tax suits involving tax protestors; and selected environmental impact cases. Examples include the Socialist Workers Party civil suit against the Attorney General; the Otis Elevator and Pitco Fire product liability cases; and two civil rights cases involving the city of Anaheim, California, and the Tennessee School Board. These types of civil trials have the potential for violence due to the emotionally charged issues in the case and the fact that there are often multiple plaintiffs in such cases. During one such case, the trial judge's children were threatened with bodily harm. Two notable civil suits which required extensive security were the cases of Westmoreland v. CBS and Sharon v. Time Magazine, both were libel suits with high media coverage.

Finally, management initiatives are now in place to deal effectively with the growing caseload. The initiatives include: (1) the consolidation of information on criminal and terrorist organizations such as PALM, Iell's Angels, the Nuestra Familia Group, Argon Nation/the Order, and Posee Contatus, all of which pose a continuing threat to the judiciary and federal prosecutors; and (2) providing technical assistance to State and local law enforcement agencies in the area of judicial training and assistance in potentially volatile trials. These initiatives have not only been cost effective but have more importantly increased the level of safety in the area of judicial security.

1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
Anticipated		Perm.		Perm.		Perm.	
Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
945	880 \$41,573	945	984 \$44,394	945	984 \$44,394	...	...

Handling of federal prisoners.....

Long-Range Goal: To ensure expeditious, economical, and secure methods for the custody, receipt, processing and transportation of federal prisoners and to acquire and maintain sufficient and acceptable detention space for federal prisoners in non-federal facilities.

Major Objectives:

To obtain adequate and sufficient detention space in federal court cities to permit the efficient and cost effective daily production and handling of federal prisoners in accordance with court schedules.

To efficiently receive and process all federal prisoners remanded to custody and move and transport prisoners in a safe and secure manner within court imposed deadlines.

To expand the National Prisoner Transportation System (NPTS) capabilities, further reduce costly commercial modes and increase transportation services for other agencies (such as the Bureau of Prisons and the Immigration and Naturalization Service) on a reimbursable and cost-effective basis.

To reduce staff time, both regular and overtime, travel costs and jail expenses associated with the handling of prisoners by improving scheduling and processing techniques and maximizing utilization of mass transportation systems.

To develop and maintain an on-line prisoner management information system to provide the Service with the capability to locate, track, and monitor non-federal prisoner populations and to produce prisoner reports required for financial management.

To accomplish all on-site jail inspections in order to measure contract facilities' level of compliance with State, local and national detention standards and to assist such facilities in designing and implementing projects in order to improve substandard conditions of confinement to reduce court orders and inmate litigation.

To successfully administer the Cooperative Agreement program and Excess Property program in order to obtain guaranteed detention space from qualified contract facilities in federal court cities.

To expand the limited number of facilities available for the housing of juveniles, female prisoners, and undocumented alien material witnesses.

**Base Program Description.** This program supports the federal judicial system through its responsibility for: (1) the receipt, administrative processing, and production for judicial proceedings of all prisoners in Marshals Service custody; (2) the transportation and movement of federal prisoners; (3) the NPTS; and, (4) the supervision of unsentenced prisoners.

**Receipt and Processing** - Individuals arrested or detained for violation of federal statutes by any law enforcement officer are brought before a magistrate for an initial hearing. Upon completion of the hearing, the prisoner is remanded to the custody of the Marshals Service until such time as the charges are dismissed, the prisoner is released on bond or personal recognizance, or is tried, acquitted, or convicted and delivered to an institution for service of the sentence. Each individual arraigned is processed by the Marshals Service. Processing includes the assignment of a prisoner control number, fingerprinting and photographs, establishment of criminal and personal data records, property records, medical records and other data. Inquiries are made through the National Criminal Information Center (NCIC) to determine if there are other outstanding charges. Requests for name and fingerprint checks are forwarded to the FBI. Each day, prisoners are moved from contract or federal detention facilities and district holding cells for production in accordance with court calendars and for out-patient medical care and hospitalization as required.

**Transportation and Movement** - Federal prisoners are transported and moved within and between districts for study, observation and competency examinations, delivery to designated institutions for service of sentence, as well as transfers between federal institutions. Such moves must be accomplished in accordance with court directives in a secure and cost-effective manner. The current modes of transporting federal prisoners include automobile, bus, van, and air. Short distance prisoner movements are routinely completed by district personnel in government vehicles. The long distance movements are centrally controlled to ensure the maximum number of prisoners are moved in the most efficient and cost-effective manner possible.

**NPTS** - Long distance prisoner movements are accomplished through NPTS which is composed of airlift and supporting bus, van and small plane feeder systems. When NPTS cannot meet court imposed deadlines due to limitation of air routes and limited frequency of airlifts, alternative usage of commercially regularly scheduled air service and chartered aircraft must be made. The scheduling of prisoner movements is completed through coordination of data received from 94 judicial districts and 41 Federal Prison System institutions. Management information including the number of trips performed and prisoners moved, travel, guard, and overtime obligations, and mode of travel utilized is collected. The Marshals Service also coordinates and schedules the majority of the sentenced prisoner transfers between Federal Prison System institutions.

**Supervision of Unsentenced Prisoners** - The supervision of unsentenced prisoners function has the responsibility for the acquisition of adequate and sufficient detention space for federal prisoners in custody in non-federal facilities located in or near federal court cities. This area also administers the Cooperative Agreement and Federal Excess Property Program which were specifically designed to improve the level of inmate services, halt the loss of jail space and obtain guaranteed space for prisoners in federal court cities.

**Detention space** is obtained through the negotiation, award and administration of an estimated 786 interagency agreements or in some cases contracts which, in turn, generate an annual requirement for approximately 1,000 on-site jail inspections. Jail inspections were designed to ascertain the level of compliance of each facility with established national detention standards and to identify those conditions of confinement which are substandard and need improvement.



Due to severe overcrowding and an ever-increasing tide of prisoner litigation and court orders on substandard conditions of confinement, the Service experienced a serious decline in the number of local jails in metropolitan areas which are willing to continue to house federal prisoners. A total of 251 State and local facilities have terminated or severely restricted space for federal prisoners, 64 percent of which were lost since 1980. The result has been a significant increase in the number of unsentenced federal prisoners who have been diverted to already overcrowded federal institutions or outlying rural jails. Since 1979, the number of prisoners housed in federal facilities has increased by 48 percent and federal institutions are, at present, approximately 30 percent over their operational capacity. Since its implementation in late 1982, CAP has met with very positive support from State and local governments and has contributed to the stabilization of jail space loss. In 1984, the Marshals Service lost only eight additional facilities.

The daily production of these prisoners from outlying facilities for court proceedings generates a severe drain on already limited agency personnel and transportation resources. In order to produce prisoners for court, deputy marshals are often required to travel several hours, on overtime status, at the beginning of the day to these jails and repeat the process at the end of the court day. There has been a marked increase in the average number of workhours devoted to the handling of prisoners and in the use of intermittent deputies, contract guards, and administrative personnel to supervise such prisoners while in district office detention cell areas. The opportunity for prisoner escape, highway accidents and deputy error caused by fatigue increases dramatically with the distances traveled.

The implementation of the Comprehensive Crime Control Act of 1984 has resulted in an increase in the number of prisoners being committed to detention facilities and requiring secure escort and production for judicial proceedings. Under the Bail Reform Act of 1984, prisoners who would have previously been released on bond, may now be detained based upon a determination that the individual would pose a danger to another person or the community as a whole. Such detention decisions will generate increased demands on already limited Service personnel and detention space resources.

As detention space in federal court cities is already severely limited, the U.S. Marshal may be required to utilize additional facilities in outlying areas to accommodate this prisoner load increase. The utilization of additional facilities in various locations requires the scheduling of additional deputies for the pickup and production of these prisoners to the cellblock as well as providing secure escort during judicial proceedings.

Accomplishments and Workload: The workload of the Handling of Federal Prisoners program is presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Number of prisoners received and processed.....	85,499	82,365	85,000	86,000
Number of prisoners handled.....	275,089	290,648	314,500	326,800
Number of prisoners moved.....	104,400	106,830	115,660	144,910
Number of trips completed.....	23,161	22,911	23,605	24,655
Average hours handling per prisoner received.....	12.07	13.48	13.75	14.38
Jail inspections performed.....	328	336	400	500
Contracts written or modified.....	452	280	225	225
Contracts in force.....	783	786	800	820

In 1984, the Service received 82,365 individuals charged with violations of Federal laws of which 94 percent (77,761) were detained in custody (52,202 in contract jails and 25,559 in Federal institutions). On the average, each prisoner received was handled 3.53 times due to the requirements for court proceedings, medical care, and transfers between detention facilities to alleviate critical space shortages. The increase in the number of Federal judges and magistrates and the loss of critically needed jail space close to the courts has forced district personnel to expend 117 percent more workyears than in 1979 for within district movement of prisoners. As a result, the personnel savings generated by improvements in the NPTS were diverted to the receipt and processing of prisoners function.

During 1984, the Service conducted 106,830 prisoner movements, of which 58,100 (54 percent) were movements by NPTS. The number of NPTS airlifts increased, resulting in 10,207 movements (18 percent of the total NPTS movements) being transported by airlifts. The NPTS airlifts, coupled with the development and implementation of the "centralized ticketing" program, resulted in a 20 percent reduction in the number of prisoners transported by commercial air and a reduction to the amounts expended for commercial air compared to 1982 statistics. This program centralizes the scheduling of prisoner trips on commercial airlines in order to obtain the best rates available, ensures the maximum use of the contract city pairs, and limits the per diem and overtime per trip. In addition, the development and implementation of NPTS has resulted in a significant reduction in the average cost per prisoner moved. As an example, the average cost per prisoner moved on the NPTS airlift is approximately \$327 and the average cost per prisoner by commercial air is \$683.

During 1985, a total of 115,660 prisoner movements are expected to be conducted, of which 65,300 (56 percent) will be transported by NPTS. A total of 11,755 prisoner movements should be completed by NPTS airlifts (18 percent of all NPTS movements).

Special jail operations training assistance (in particular, regional training seminars) was continued by the Service for State and local detention staffs in the areas of fire prevention, medical care, detention standards, inmate rights, prisoner supervision and security. The Service has continued to expand its highly successful Federal Excess Property (FEP) program for contract detention facilities. Since its implementation in 1982, the FEP program has provided approximately \$5 million in personal property, the majority, or 70 percent, of which is consumable, personal property (i.e., clothing, linens, and supplies). During 1984, an automated property management information system was designed and tested for the FEP program. Full system implementation will take place in 1985.

1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
Anticipated		Ferm.		Ferm.		Ferm.	
Pos.	NY	Account	Pos.	NY	Account	Pos.	NY

Organized crime drug enforcement.. 13 13 \$689 13 13 \$686 13 13 \$686 ... ..

Long-range goal: To participate in the presidentially mandated enforcement and prosecutive effort of the Task Force operation.

Major Objectives:

- To promote a coordinated drug enforcement effort in each OCS Task Force region.
- To make full use of financial investigative techniques and forfeiture actions, thereby enabling the government to seize assets and profits derived from organized crime and narcotics trafficking.
- To provide an effective liaison between the Marshals Service and the OCS Task Forces.

Base Program Description: This program provides the funding for 13 positions and related resources assigned to each of the regional headquarters offices of the OCS Task Forces. These offices are: Boston, Massachusetts; New York, New York; Baltimore, Maryland; Atlanta, Georgia; Detroit, Michigan; Chicago, Illinois; St. Louis, Missouri; Houston, Texas; Denver, Colorado; San Francisco, California; Los Angeles, California; San Diego, California; Miami, Florida. The focus of Marshals Service participation in the OCS Task Force activity is on coordination of fugitive felon investigations, witness relocation and protection, prisoner transportation, and asset forfeiture in support of the program.

Accomplishments: This program cannot report workload and performance in statistical form. Marshals Service Investigators assigned to the OCS Task Forces, as in the case of all participating law enforcement personnel, are directed by Task Force officials in the execution of their daily coordination activities. Furthermore, each Task Force operates uniquely and captures independent data that is reported directly to the Department of Justice. The Marshals Service is unable to separate OCS workload from the workload delineated in the other programs.

During 1984, Marshals Service personnel played a vital role in the OCS Task Forces in all areas of responsibilities. In addition, Marshals Service personnel are actively engaged in drug, financial and other such task force investigations. For example, in February 1984, Marshals Service Investigators responded to a request for assistance in West Virginia from the OCS Task Force Great Lakes Region. Marshals Service Investigators made a sweep of 17 arrests in five hours on indictments issued for violations of drug laws, tax fraud and racketeering. Property seizures during this particular raid included a 92 acre coal mine, a bar, a taxi company, two houses and several vehicles.

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.
	297	291	\$19,287	297	292	\$19,779	297	292 \$18,273 ...
Management and administration.....								... - \$1,506

Long-Range Goal: To address the managerial and administrative requirements in the areas of planning, policy development and direction, budgeting and financial management, training and administrative services created by the Marshals Service's diverse mission and great number of distinct law enforcement responsibilities.

Major Objectives:

- To provide executive leadership and policy guidance to operational and administrative staff in order to operate in an efficient and cost-effective manner.
- To ensure that the highest standards of integrity, loyalty, and conduct are maintained among all Marshals Service personnel.
- To develop and maintain the Marshals Service's human resources by providing an ongoing comprehensive set of internal and external training courses to achieve a level of excellence in the Service's personnel.
- To disseminate information about Marshals Service activities to public officials, agencies and the general public.
- To assess personnel and financial resource needs by program, obtain adequate resources and manage their utilization.
- To provide efficient and effective personnel management.
- To maintain an effective Equal Employment Opportunity program throughout the Service.
- To secure and maintain an adequate motor vehicle fleet and fully support district equipment requirements.
- To broaden implementation of the ADP, radio, and telecommunications system in districts to strengthen their operational law enforcement and financial management capabilities.
- To collect and disburse funds in a timely and efficient manner.
- To account for all transactions in a timely and accurate manner to the Department of Treasury, Department of Justice and Marshals Service management.

Base Program Description: The various programs constituting the Management and Administration program recognize the diverse mission of the Marshals Service and are organized to provide managerial guidance and ensure consistency in the application of policies and procedures. This minimizes the time line managers in the 94 district offices spend on administrative matters. The program areas encompassed include: 1) Executive Direction and Control; 2) Administrative Services; 3) Financial Support Services; and 4) Marshals Service Training.

The Executive Direction and Control program area is charged with providing the overall direction and management of the Service in order to better carry out its operational mission. This is accomplished by the formulation of policy which guides field personnel and headquarters divisions. In addition, this program area is tasked with overseeing key management operations which include: 1) responding to government officials and the public; 2) coordinating and reviewing legal issues and litigation which may have an impact on the Service's mission; 3) maintaining a high level of integrity among Service personnel; and 4) conducting management audits which ensure that district operations are efficient and cost-effective.

The Administrative Services program area is designed to ensure that staff support services are responsive to the operational divisions so they may better perform mission requirements. Specifically, this area encompasses personnel management, Equal Employment Opportunity, the management of property and procurement, and the implementation of automated systems to support these activities.

The Financial Support Services program area is responsible for the prompt payment of debts and for collection and deposit of funds due the government by law or court order.

In response to the over-increasing demands placed on the Marshals Service by the judicial and executive branches, the Marshals Service Training program provides initial, refresher and specialized courses of instruction which produce a highly competent operational and administrative workforce.

**Accomplishments and Workload:** The workload of the Management and Administration program is presented in the following table:

Item	1983	1984	1985 Estimate	1986 Estimate
Public information/congressional responses.....	8,320	8,820	9,470	9,750
Administrative tort claims and lawsuits against USMS processed.....	340	350	360	370
District and program audits/management reviews completed.....	45	25	25	25
FOIA/Privacy Act responses.....	443	500	550	600
Reconstrual allegations investigated by Headquarters.....	99	144	110	110
Personnel actions processed.....	7,130	8,255	7,650	7,650
Employment applications reviewed.....	5,400	6,400	7,000	7,000
EOB complaints filed.....	13	27	40	12
Property and procurement actions completed.....	6,200	8,411	9,200	9,200
Printing actions.....	430	502	500	500
JUST and MERS teletype messages.....	746,153	1,107,716	1,110,100	1,110,100
WFO clear and hits.....	5,667	4,302	7,415	7,415
Communications equipment actions completed.....	2,900	2,500	2,500	2,500
Major renovations completed.....	11	11	21	21
Check issuances.....	216,070	235,800	241,730	241,730

Item	Estimates		
	1983	1984	1985
Vouchers certified at field offices.....	143,456	161,700	179,900
Basic Deputy Marshal training.....	96	120	144
Advanced training.....	187	375	324
Supervisory training.....	54	100	140
Court security orientation.....	198*	547*	300*
800 training.....	130	130	130
Survival school.....	90	350**	300

\*Cost is reimbursed by AUSA.

\*\*Includes 100 border patrol officers receiving the training. The Marshals Service was reimbursed for this expense.

During the past year, program managers continued to implement and expand upon a number of major initiatives designed to improve the Service's ability to perform its mission in a responsible yet cost-effective manner.

In the Executive Direction and Control program area, the Office of Congressional and Public Affairs received and answered more than 16,000 inquiries from the public and the news media in 1984. Five press reports were prepared for the Attorney General to further the dissemination of information to the public, and 140 official publications (news releases, brochures, and newsletters) were prepared and released. Perhaps the most humanitarian accomplishment has been the preparation of approximately 200 letters of condolence from the Attorney General to families of slain law-enforcement officers.

During 1984, the Office of Legal Counsel provided defense for the Marshals Service in personnel matters and other cases directly affecting the operations of the Marshals Service. Legal defense was also provided in liability suits for injunctive and affirmative relief and monetary claims in the millions of dollars. In 1984, the Legal Counsel staff responded to 500 Freedom of Information and Privacy Act requests, and appeals; 175 tort claims; 50 employee claims for property damage; 75 personnel actions in administrative proceedings and arbitrations; 175 matters in litigation, and issued 175 legal opinions.

The Office of Internal Inspections completed 144 criminal and administrative investigations on the conduct of Marshals Service personnel, which resulted in criminal and administrative sanctions or letters of clearance. This office also extended investigative guidance to management officials who conducted 49 investigations involving less serious allegations. In an effort to streamline the Service's operations, there was a change in emphasis in the audit program from a single compliance audit to a resource utilization/compliance/operational audit, which will provide management with the information needed to evaluate field and program management effectiveness and distribution of resources. As a result of these audits, savings were realized through tighter controls on overtime, intermittent deputy hours, guard hire, government vehicles, storage of evidence and seized property, and the collection of past due fees, earnings and reimbursable items. It is anticipated that approximately 35 audits will be completed in 1985.

In the area of Administrative Services, the personnel staff successfully developed and implemented four two-week basic management training seminars. These seminars, as a matter of Maricopa Service policy, are now required training for all new chief and supervisory deputies. The merit promotion program selection process was computerized, and the application procedures for specialist positions were substantially shortened. A written examination for enforcement positions was designed and implemented. New recruits in 1984 achieved the highest level of academic scores at the Federal Law Enforcement Training Center of any deputies recruited since 1975. A comprehensive Personnel Management Handbook was developed and distributed to managers and standard operating procedures have been set in place which will better measure workload and performance.

In the area of Equal Employment Opportunity, 55 newly appointed supervisory personnel were trained and 30 persons were counseled. Informal meetings conducted by the EEO staff will resolve approximately 75 percent of the complaints received. The Hispanic Employment Program was enhanced during 1984 with additional collateral duty managers being selected and major Hispanic conferences attended. A preliminary workforce analysis was performed to determine the representation of minorities. An EEO advisory committee was established to assist the Director in identifying practices that adversely affect minorities.

Improvements were also realized in the General Services Support Program which has experienced workload increases in the areas of transportation, space management, renovations, and materials management. Program personnel managed over 1,100 vehicles and 359 facilities; monitored over 95 major GSA construction projects; funded 279 minor renovation projects; completed 8,411 procurement, and accountable property transactions; filled approximately 13,000 individual requests for stock items; and handled 502 printing orders. Two district offices were relocated and 15 offices were opened in support of the Seized Asset and Internal Investigation programs. The Maricopa Service embarked upon a new program to utilize seized vehicles during 1984.

The 1984 accomplishments of the ADP Management Program are: 1) implementation of the Prisoner Population Management System and the District Accounting System in four District Automation Pilot Project districts; 2) development of a nationwide Warrant Investigation System to assist in fugitive apprehensions and to supply statistical data; 3) development of a Seized Property System; 4) enhancement of the merit promotion ranking system to include inspector and specialist positions in addition to chief deputy and supervisory deputy positions; 5) initial design of an Employee Skills Profile System to support training, deputy assignments, and personnel activities; 6) initiation of a feasibility study for a microfilm system to support the archival storage and retrieval of district files; and, 7) on-going maintenance and enhancements to the Statistical Reporting System, Witness Security System, Financial Management Information System, and Jail Contracts Management System.

In 1984, a new staffing allocation system was developed which incorporates statistically valid workload indicators. A new, more timely workload collection system was piloted in five districts for implementation service-wide in 1985 and the conceptual framework for a new service-wide resources needs analysis system was developed which will enable the Service to better assess the impact of external workload factors on the budgetary and personnel requirements of the agency.

In the area of Financial Support Services, the Service issued various directives to improve the accounting and reporting systems for the collection and disbursement of funds in the district offices. The district offices processed approximately 181,700 vouchers and issued approximately 235,800 checks amounting to \$190 million during 1964. Collections for this period were approximately \$112 million.

Training remains the essential ingredient in the quality of a law enforcement agency, and during 1964, the Marshals Service continued to place heavy emphasis on providing its personnel with the best and most comprehensive training available. In 1964, the Marshals Service Training Academy trained approximately 1,240 Marshals Service and other law enforcement personnel in 45 separate schools and conferences. This consisted of roughly 14,280 students training days at the Federal Law Enforcement Training Center (FLETC), which is a 48 percent increase over the 1963 level. In 1964, there were five Criminal Investigator schools with five follow-on Basic Deputy Schools, compared to four in 1963. Specialized advanced training conducted includes: one Community Detention/Enforcement class, one Fugitive Investigation class, one Large Officer Training class, five Advanced Deputy Training classes (with Protective Services training incorporated into the last three), one Witness Security Inspector Basic class, one Protective Services School (as a follow-on to WITSEC Basic), two Administrative and Financial Management Seminars, three State and Local Court Security Seminars, one U.S. Naval Academy Unit Special Training, one Marshals Orientation and 17 Court Security Officer Orientation classes. The Training Academy has also arranged for 12 personnel to attend FLETC's Basic Instructors Training program and 12 Deputy U.S. Marshals received Firearms Instructor Training at FLETC. In addition to these 24 individuals, and as a direct result of the National Asset Seizure and Forfeiture program, four individuals were trained in Marine Law Enforcement Techniques. The average length of time for each course at the Academy was 13 days. The average cost per course was \$18,077, and the average cost per student was \$911. A total of 160 hours were devoted to the training of employees from various other federal agencies, military branches, state and local governments and foreign countries and contributors. In addition to these significant amounts of training, the U.S. Marshals Service Training Academy coordinated the largest training effort of any law enforcement entity by contracting with Calibre Press, Inc., to train a total of 804 journeyman deputies and inspectors in three separate "Street Survival Seminars."

Program Changes: A program reduction of \$1,506,000 is requested in accordance with the government-wide management improvement initiative. The reduction will be accomplished in programmatic areas which do not have a direct impact on the accomplishment of the operational mission. The areas include: 220j personnel; health and safety; audit and compliance; and public information.



U.S. Marshals Service  
Salaries and expenses, U.S. Attorneys and Marshals  
Priority Ranking

<u>Program</u>	<u>Base Program</u>	<u>Ranking</u>
Security Support		1
Fugitive Investigations and Court Orders		2
Organized Crime Drug Enforcement		3
Witness Security		4
Handling of Federal Prisoners		5
Management and Administration		6

U.S. Marshals Service  
Salaries and expenses, U.S. Attorneys and Marshals  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1985

Category	1984 Authorized	1985		1985 Total
		Authorized	Proposed Supplemental	
Attorneys (905).....	6	6	1	7
Paralegal Specialists (950).....	...	...	1	1
Other Legal and Kindred (900-988).....	4	4	...	4
Criminal Investigators (1811).....	612	616	1	617
U.S. Marshals (082).....	991	1,042	281	1,343
Other Misc. Occupations (001-099).....	4	4	...	4
Social Sciences, Economics and Kindred (100-199).....	1	1	...	1
Personnel Management (200-299).....	23	23	...	23
General Adm., Clerical and Office Services (300-399).....	331	335	3	338
Accounting and Budget (500-599).....	120	120	45	165
Engineering and Architecture Group (600-699).....	2	2	...	2
Information and Arts Group (1000-1099)...	2	2	...	2
Business and Industry Group (1100-1199)...	20	14	2	16
Equipment, Facilities and Services Group (1600-1699).....	1	1	...	1
Education Group (1712).....	1	1	...	1
Supply Group (2000-2099).....	14	14	40	54
Total.....	2,132	2,205	374	2,579
Washington.....	122	124	10	134
U.S. Field.....	2,009	2,080	364	2,444
Foreign Field.....	1	1	...	1
Total.....	2,132	2,205	374	2,579

U.S. Marshals Service  
Salaries and expenses, U.S. Attorneys and Marshals  
Financial Analysis - Progress Changes  
(Dollars in thousands)

Item	Management Administration	
	Amount	
Personnel benefits.....		-9160
Travel and transportation of persons.....		..
Transportation of things.....		..
SLUC.....		..
Communications, utilities and other rents.....		..
Printing.....		..
Other services.....		-846
Supplies and materials.....		-500
Equipment.....		-200
Total workyears and obligations, 1966.....		-1,506

Department of Justice  
Legal Activities  
Support of United States Prisons  
Estimates for Fiscal Year 1986  
Table of Contents

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Legal Activities  
Support of United States Prisoners  
Summary Statement  
Fiscal Year 1966

For 1966, a total of \$53,240,000 is requested for the Support of U.S. Prisoners appropriation. Of this amount, \$53,240,000 will be used to pay for the support, housing and safeguarding of unconvicted federal prisoners, probation/parole violators, and alien material witnesses in Marshals Service custody and \$5,000,000 will be for the Cooperative Agreement Program (CAP).

The primary mission of the Support of U.S. Prisoners appropriation is to provide for the care, housing, and safeguarding of federal prisoners in the custody of the Marshals Service at a level of subsistence which meets nationally accepted standards for detention and holding facilities. This mission is accomplished through the negotiation and administration of approximately 700 agreements with State and local detention facilities located throughout the United States. The appropriation also supports the Cooperative Agreement Program which is designed to assist the governments of States, territories, or political subdivisions thereof, in the necessary upgrading, physical renovation or construction of their detention facilities in exchange for guaranteed housing for federal prisoners for a specific period of time. This program also provides excess federal property and technical assistance to State and local governments which provide housing for federal prisoners. The major initiatives and resource requests are summarized below.

Care of U.S. Prisoners in Non-Federal Institutions

This activity is responsible for providing adequate medical and hospital guard services as well as housing and subsistence for federal prisoners in the custody of the Marshals Service. During 1966, this program will require \$49,765,000 for jail-day payments at a projected daily rate of \$3.50, as well as \$2,600,000 for medical care, and \$875,000 for guards and other expenses.

Cooperative Agreement Program

This program is responsible for funding Cooperative Agreement projects, which will obtain guaranteed housing for federal prisoners in State and local detention facilities in or near federal court offices. At the same time, CAP helps to improve the conditions of confinement in facilities in accordance with national, State and local detention standards. For 1966, \$5,000,000 is requested to be available until expended to fund an estimated ten major CAP agreements with State and local governments.

Legal Activities

Support of United States Prisoners

Proposed Authorization Language

The following authorization language is requested for Support of United States Prisoners:

Annual Authorization Proposal

For the Support of United States Prisoners in non-Federal Institutions: \$58,240,000. Provided that amounts will be available for the reimbursement to Saint Elizabeths Hospital and other appropriate health care providers for the care, diagnosis and treatment of United States prisoners and persons adjudicated in Federal Courts as not guilty by reason of insanity at rates that in the aggregate do not exceed the full costs of the services.

Permanent Authorization Proposal

Chapter 301 of title 18, United States Code is amended by inserting after section 4011 the following new section:

"§4012. Support of United States Prisoners in non-Federal Institutions.

"The Attorney General or his designee is authorized to make payments from the Support of United States Prisoners in non-Federal Institutions appropriation for:

- "(a) the necessary clothing and medical aid, and payment of rewards; and
- "(b) entering into contracts or cooperative agreements provided that, amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average federal prison population to be housed in the facility or in other facilities in the same correctional system as projected by the Attorney General, to assist the Government of any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, and the acquisition of equipment, supplies, or materials required to improve conditions of confinement and services of any facility which confines federal detainees, in accordance with regulations issued by the Attorney General and which are comparable to regulations issued under 18 U.S.C. 4061. Provided further, that following agreement on or completion of any federally assisted correctional facility construction, the availability of space acquired for federal prisoners with these federal funds shall be assured and the per diem rate charged for housing federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.



#### Explanation of changes

The proposed changes are necessary to allow Cooperative Agreement Program (CAP) funding to be utilized in the most efficient manner to secure housing for Federal prisoners. The enacted appropriation language restricts the use of CAP funding to State and local jail facilities which house Federal prisoners, restricts construction agreements with local governments to those which assure space for Federal prisoners in the same facility for which CAP funding is provided, and limits the per diem rates chargeable for space constructed with CAP funding to direct operating costs. Because many State and local correctional systems have numerous facilities which could benefit from CAP funding, including but not limited to jails, it is advantageous to the Federal government to have the flexibility to use CAP funding for improvements to a correctional facility where the State or local government's need is greatest in exchange for assured space for Federal prisoners in other facilities which are nearer the Federal courthouse or otherwise best meet Federal requirements. This may entail agreements with State or local governments for assured space in facilities which do not currently house Federal prisoners. The current language regarding allowable per diem rates has created problems for State and local governments as well as the U.S. Marshals Service because it requires different cost accounting treatment under CAP construction projects than is generally applicable to grants, contracts and other agreements between the Federal government and State and local governments, as specified by Office of Management and Budget Circular No. A-87. Bringing the treatment of costs under CAP agreements into conformance with standard cost accounting practices will avoid unnecessary alternative accounting procedures, confusion and controversy. The language changes proposed are consistent with these objectives as well as the intent of the supplemental appropriation language included in the Second Supplemental Appropriations Act, 1984 (P.L. 98-356).



Legal Activities  
Support of United States Prisoners  
Breakdown of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request	Congressional Appropriation Action on 1985 Request		Supplemental Transfer	1985 Appropriation Initiated
		Request	Amount		
1. Care of U.S. prisoners in non-federal institutions..	\$53,240	...	...	-\$5,319	\$47,921
2. Cooperative agreement program.....	5,000	\$5,000	...	...	10,000
Total.....	\$58,240	5,000	...	-\$5,319	\$57,921

Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Action

Congressional action included the addition of \$5,000,000 to the CAP program.

Supplemental Transfer

A reexamination of recent trends in jail day rates will permit the Department to use about ten percent of the funds appropriated in 1985 to partially fund additional pay costs to help implement additional work related to the Comprehensive Crime Control Act of 1984, provide for an increase in the number of sentenced prisoners held in custody by the Federal Prison System, and provide for the increased cost of expert witnesses. The Department proposes to fund these initiatives by transferring \$1,536,000 to "Salaries and expenses, U.S. Attorneys and Marshals" for increased pay costs, \$1,500,000 to "Fees and Expenses of Witnesses", and \$2,183,000 to "Salaries and expenses, Federal Prison System."

Legal Activities  
Support of United States Prisons  
Summary of Requirements  
(Dollars in thousands)

<u>Adjustments to base:</u>	<u>Per- Cent.</u>	<u>Work- years</u>	<u>Amount</u>
1985 as enacted.....	...	...	\$63,240
Transfer to Fee & Expenses of Witnesses, Bureau of Prisons, and U.S. Attorneys and Marshals.....	...	...	...
1985 appropriation anticipated.....	...	...	5,319
Uncontrollable increases:	...	...	...
During 1984, the average actual jail day rate paid was \$32.40. Based on trends in jail agreement renewals the 1985 rate will be \$38.50.....	...	...	4,619
Increased costs for medical, guards and miscellaneous expenses.....	...	...	700
Total, uncontrollable increases.....	...	...	5,319
Decreases:	...	...	...
Nonrecurring decrease for the Cooperative Agreement Program.....	...	...	-10,000
1986 Base.....	...	...	53,240

<u>Estimates by budget activity</u>	<u>1984 as Enacted</u>	<u>1984 Actual</u>	<u>1985 Appropriation Anticipated</u>	<u>1986 Base</u>	<u>1986 Estimate</u>	<u>Increase/Decrease</u>
1. Care of U.S. prisoners in non-federal institutions..	\$40,465	\$38,427	\$47,921	\$53,240	\$53,240	...
2. Cooperative Agreement Program.....	11,000	17,461	10,000	...	5,000	\$5,000
Total.....	51,465	55,888	57,921	53,240	58,240	5,000

Local Activities  
Support of United States Prisoners  
Justification of Program and Performance  
Activity Resource Summary  
 (Dollars in thousands)

Activity: Support of U.S. Prisoners	1985 Appropriation Anticipated	1986 Base	1986 Estimate	Increase/Decrease
Care of U.S. prisoners in non-federal institutions.....	\$47,921	\$53,240	\$53,240	...
Cooperative Agreement Program.....	8,000	5,000	5,000	\$3,000
Total.....	\$55,921	\$58,240	\$58,240	\$2,319

This activity is responsible for providing for the adequate housing and subsistence of federal prisoners in U.S. Marshals Service custody and for funding the Cooperative Agreement Program (CAP) which will generate guaranteed housing of federal prisoners in compliance with acceptable detention standards.

Activity: Support of U.S. Prisoners	1985 Appropriation Anticipated	1986 Base	1986 Estimate	Increase/Decrease
Care of U.S. prisoners in non-federal institutions.....	\$47,921	\$53,240	\$53,240	...

Long-Range Goal: To provide for the care, housing, and subsistence of federal prisoners in the custody of the U.S. Marshals Service at a level of subsistence which meets nationally accepted standards for detention or holding facilities.

Major Objectives:

- To obtain adequate and sufficient detention space for prisoners in Marshals Service custody.
- To improve the health care services provided Marshals Service prisoners held in non-federal facilities.
- To ensure that qualified custodial guard services are obtained for prisoners undergoing medical treatment.
- To negotiate private sector contracts for the housing of minimum security alien material witnesses and their dependents.

The Attorney General, by federal statute, is responsible for providing each individual held in federal custody with reasonable quality subsistence and care. Minimum standards of confinement for prisoners have been established by judicial federal courts, national accrediting associations, and a number of States. Local governments often are required by various mandates or State jail inspection authorities to reduce their inmate population to comply with the facility's design capacity. This results in the cancellation or limitation of space available for federal prisoners. As a result, a number of unsanctioned federal prisoners have been removed from jails located in metropolitan areas and are housed in either overcrowded federal facilities or rural jails which are often located considerable distances from federal courthouses. Use of detention facilities in outlying areas generates a heavy demand on the Marshals Service in terms of personnel, overtime, and transportation. The Service has lost or been limited in its use of detention space in an estimated 23 jails, 64 percent of which were lost since 1980. There are 115 facilities currently under court order for the unconstitutionality of the conditions of confinement afforded prisoners and 43 percent, or a total of 50, of these jails were or are major-use facilities. Some agreements were cancelled by State and local authorities due to increasing dissatification with the large number of clauses required by federal procurement regulations as well as fears of potential personal liability suits being brought against them by federal inmates. Local governments and citizens' groups, while aware and supportive of detention programs, have not been willing to underwrite the cost of building or remodeling jail space which will be used for federal prisoners. A number of local governments have started planning for the construction of new detention facilities and renovations of some substandard jails. However, the planned capacity will be sufficient only for local detention requirements and will not provide guaranteed space for federal prisoners without the GAP program.

**Accomplishments and Workload! The workload of this program is presented in the following table:**

	1993	1994	1995	1996	Ratio
Agreements in force.....	763	786	800	820	
Number of contract full days used.....	1,036,277	1,099,132	1,284,000	1,293,000	
Average full day.....	\$30.26	\$32.40	\$36.00	\$36.50	
Average full day less.....	\$30.26	\$32.40	\$36.00	\$36.50	

In 1984, the Marshalls Service funded 766 Intergovernmental Agreements (IGAs) with non-Federal detention facilities, as well as provided funds for medical care and hospital guards for the custody, care and treatment of the 42,365 prisoners received. The 200 full agreements renewed or modified during 1984 were upgraded to conform to regulations and recommendations made by the General Accounting Office on contract pricing and cost standards. In 1983, the Marshalls Service received approval

Based on updated statistics, the jail day rate has been increased since preparation of the galleries.

from US to utilize this instead of formal contracts to obtain detention services from State and local governments. The conversion to this has received positive response from State and local governments which, in the past, refused or were reluctant to house federal prisoners. Required documentation has been cut 72 percent, federal administrative workyear requirements reduced 75 percent, local review and processing time cut an estimated 12,000-15,000 workhours a year, and the contract backlog eliminated.

During 1984, \$35,656,000 in program funds were expended for an estimated 1,099,432 days of inmate housing and over \$2,771,000 for guard, medical, and miscellaneous expenses for Marshals Service prisoners.

The Service has continued to negotiate detention contracts with the private sector for undocumented alien material witnesses placed in its custody. Agreements have been issued in California, New Mexico, and Arizona for minimum security detention and adequate child care of these material witnesses and their dependents who were previously detained in overcrowded jails for adults.

The continued success in acquiring such alternative sources of detention space will become extremely important as the USMS material witness detainee population grows as a result of INS prosecution initiatives. An additional 650 border patrol officers will be added in 1985 and will impact on USMS alien detainee levels in 1986 and beyond.

	1985 Appropriation Anticipated	1985 Base	1986 Estimate	Increase/Decrease
Cooperative Agreement Program.....	\$10,000	...	\$5,000	\$5,000

Long-Range Goal: To provide funding for the Cooperative Agreement Program (CAP) to enable selected State or local governments to renovate or construct detention facilities in order to obtain adequate and sufficient jail space for federal prisoners.

Major Objectives:

To provide funding which will encourage State and local governments to house federal prisoners and to provide conditions of confinement and levels of inmate services which will be in compliance with acceptable detention standards.

To acquire guaranteed detention space in close proximity to the federal courts in order to reduce the drain on Marshals Service resources for in-district handling and production of prisoners and to provide defendants with adequate access to counsel and to the courts.

To ensure that sufficient and adequate detention space will be available to support both the current and the projected increase in Federal prisoner population levels anticipated with the Comprehensive Crime Control Act of 1968, and prosecution initiatives by the Immigration and Naturalization Service.

To provide Federal access property to substandard facilities which house Federal prisoners which improve conditions of confinement at little or no cost to the Federal Government.

**Basic Program Description:** The Marshall Service's Cooperative Agreement Program is not a grant program but a negotiated agreement program. Program participants are selected by the Marshall Service in order to obtain guaranteed detention space in compliance with State, local or national detention standards for Federal prisoners in Federal court cities where severe detention space shortages are being experienced. The CAG program allows the Service to enter into cooperative agreements with State and local governments for the necessary renovation or construction of detention facilities in exchange for guaranteed bed space for Federal prisoners for a specified period of time. Negotiations are initiated by the Service and the funding levels are established based upon the number of guaranteed beds needed. CAG participants must submit periodic progress reports and their requests for payment are reviewed and approved prior to disbursement by the U.S. Marshal who conducts on-site inspections of work performed. The Federal Government needs such a program to encourage State and local governments to provide essential detention space for Federal prisoners if the Marshall Service is to continue to support the Federal courts and produce prisoners for judicial proceedings.

**Accomplishments and Workload:** The workload of this program is presented in the following table:

Item	Estimates		
	1962	1964	1965
Cooperative agreements awarded.....	15	18	20
Jails under Federal court order.....	117	116	119
Jails where Federal utilization has been restricted or terminated.....	243	251	230
Contract facilities receiving Federal excess property.....	167	225	275
Wine of the 15 agreements will be funded by Jobe Bill funds.			325

Since its implementation in late 1962, CAG has met with very positive support from State and local governments. The most significant accomplishment for the program is the dramatic stabilization experienced in the loss of contract jail space for Federal prisoners. From 1960-1963, the number of facilities which restricted or terminated detention space increased 170 percent (from 90 to 243). In 1964, the Service lost only eight additional facilities which was the beginning of the reversal of the alarming trend of lost jail space. The 1962-1965 CAG agreements are expected to generate an estimated 3,100 guaranteed bedspaces for Federal prisoners in local detention facilities in 41 Federal court cities at a cost

of only \$90.3 million. This represents an average cost of \$16,200 per bed which is well below the national average cost of \$49,000 for new construction of minimum security bedspace. The \$30 million in Jobs Bill funding allocated in 1985 has been instrumental in accelerating CJP's beneficial impact on the local jail space crisis.

As of January 1985, a total of \$16.7 million in Jobs Bill funding has been obligated for 892 guaranteed beds in 22 federal court cities. CJP has also helped to support the ODR Task Forces in that 801 of all the beds to be acquired will be in eight of the 13 Task Force cities.

As a result of the issuance of a federal court order in 1980, the U.S. Marshal of Nevada lost all detention space in the Las Vegas area. State and local detention space throughout the State was unavailable due to severe overcrowding problems. The district was forced to transport its prisoner load approximately 500 miles (one-way) to the Federal Metropolitan Correctional Center in San Diego, California. Deputy fatigue and "burnout" as well as significantly increased transportation and overtime costs were the result. In 1984, the Service was able to negotiate a CJP agreement with Clark County which provided the Maricopa Service with 70 guaranteed bedspaces in the County's new \$49 million dollar detention facility. Thirty-five of these bedspaces became available in October 1984, and the district's overtime has been cut by 50 percent.

The Maricopa Service's Federal Excess Property Program has also been extremely successful in helping to stabilize the trend of cancelled contracts or reductions in space for federal prisoners. As of January 1984, excess federal personal property valued at \$5 million had been provided to 247 local jails in 68 judicial districts. The implementation of the Federal Excess Property Program has already met with positive support from State and local governments.

Both the Pinar County Jail in San Antonio, Texas and the Santa Clara County Jail near San Francisco, California have agreed to house federal prisoners after refusing to do so for two years in order to participate in the Federal Excess Property Program. The Polk and Story County Jails located in the State of Iowa have agreed to reduce their jail day rate as a result of the Service providing them with excess property. The Department of Corrections in Puerto Rico is under court order for overcrowding and substandard conditions of confinement including inadequate medical care. Excess medical equipment was acquired through the program to assist them in addressing that portion of the court order requiring improved medical care and has motivated the Puerto Rican Government to continue to house federal prisoners.

**Program Changes:** A \$5,000,000 increase in the Cooperative Agreement Program would enable the Service to continue to improve the quality of care and housing provided federal prisoners in contract jails. The number of jails under court order would be reduced as a result of further use of CJP and the number of major use jails under contract would increase.

An estimated 10 CJP agreements could be funded; most of which would involve cooperative construction to provide long term guaranteed detention space for federal prisoners. The loss of essential local jail space would continue to be reversed. Further, additional detention space closer to federal courts would be obtained. This program increase is in object class \$1.0 entitled, "Grants, subgrants, and contributions".

The following judicial districts have been targeted as potential sites for CJP projects in 1986: Middle Florida; Western North Carolina; Southern Texas; Western Texas; Southern Georgia; Northern New York; South Dakota; Maine; Northern Ohio; and Wyoming.

Legal Activities  
Support of United States Prisoners  
Summary of Requirements by Object Class  
(Dollars in thousands)

Object Class	1995 Estimate	1995 Estimate	Increase/Decrease
11.8 Special personal services payments...	497	41,060	4163
Total, workyears and personnel compensation.....	897	1,060	163
12 Personal benefits.....	13	15	2
25 Other services.....	46,858	51,987	5,129
26 Supplies and materials.....	125	150	25
41 Grants, subsidies, and contributions.	18,656	5,028	-13,628
Total obligations.....	66,549	58,240	-8,309
Unobligated balance, start-of-year.....	-8,628	...	8,628
Total requirements.....	57,921	58,240	319
Relation of obligations to outlays:			
Obligations incurred, net.....	66,549	58,240	
Unobligated balance, start-of-year.....	28,076	34,024	
Obligated balance, end-of-year.....	-34,024	-27,848	
Outlays.....	60,601	64,416	



Department of Justice  
Local Activities  
Assets Portfolio Fund  
Estimates for Fiscal Year 1986  
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Legal Activities  
Assets Forfeiture Fund  
Summary Statement  
Fiscal Year 1986

For 1986, \$20,000,000 is requested for the Department of Justice Assets Forfeiture Fund. This fund, which was established by the Comprehensive Crime Control Act of 1984 (P.L. 98-473), will be credited with forfeited cash and proceeds of sales of forfeited property. Financial resources are requested to be appropriated from proceeds of forfeited property to provide for specific expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property that has been forfeited under laws enforced by the Department of Justice. In addition, resources are requested for other payments authorized by 28 U.S.C. 524 (c)(1), including payments of awards for information and assistance leading to forfeitures; payments to equip forfeited conveyances for official use; and, purchase of drug evidence.

Legal Activities  
Assets Forfeiture Fund  
Proposed Authorization Language

The following authorization language is requested for the Department of Justice Assets Forfeiture Fund:  
For the Department of Justice Assets Forfeiture Fund: \$20,000,000.

Legal ActivitiesAssets Forfeiture FundJustification of Proposed Changes in Authorization Language

For the Assets Forfeiture Fund, the Department of Justice is requesting the following new language to be added to its authorization in 1986.

For the Department of Justice Assets Forfeiture Fund: \$20,000,000.

This language is necessary to authorize funding to implement provisions of the Comprehensive Crime Control Act of 1984 (P.L. 98-473), which established the Assets Forfeiture Fund.

Legal ActivitiesAssets Forfeiture FundJustification of Proposed Changes in Appropriation Language

The 1986 budget estimates include proposed changes in appropriations language listed and explained below. New language is underscored.

Assets Forfeiture Fund

For expenses of the Department of Justice Assets Forfeiture Fund authorized by 28 U.S.C. § 524 (c)(1)(A)(B)(C) and (D) \$20,000,000 is appropriated out of net proceeds, after the satisfaction of all expenses authorized by 28 U.S.C. § 524 (c)(1)(C) and (D).

Explanation of change

This language is necessary to appropriate funding to implement provisions of the Comprehensive Crime Control Act of 1984 (P.L. 98-473) regarding the Department of Justice Assets Forfeiture Fund.

Legal Activities  
Assets Forfeiture Fund  
Drawdown of 1985 Changes  
(Dollars in thousands)

<u>Activity/Program</u>	<u>1985 President's Budget Request</u>	<u>1985 Program Supplemental Requested</u>	<u>1985</u>
			<u>Appropriation Anticipated</u>
Assets Forfeiture Fund.....	...	\$5,000	\$5,000

Explanation of Analysis of Change from 1985 Appropriation Request

Supplemental Requested

The 1985 program supplemental request of \$5,000,000 provides for funding necessary in 1985 to implement the Department of Justice Assets Forfeiture Fund provisions of the Comprehensive Crime Control Act of 1984 (P.L. 98-473).

Legal Activities  
Assets Forfeiture Fund  
Summary of Requirements  
(Dollars in thousands)

Adjustments to base:	Perm. Pos.	Work- years	Amount
1985 as enacted.....	..	...	...
1985 program supplemental for Assets Forfeiture Fund.....	...	...	\$5,000
1985 appropriation anticipated.....	...	...	5,000
1986 base.....	...	...	5,000

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Estimates by budget activity	1984 Enacted	1984 Actual	1985 Appropriation Anticipated	1986 Base	1986 Estimate	Increase/Decrease
Assets Forfeiture Fund.....	...	...	\$5,000	\$5,000	\$20,000	\$15,000

Legal Activities  
Assets Forfeiture Fund  
Justification of Program and Performance  
Activity Resource Summary  
 (Dollars in thousands)

Activity: Assets Forfeiture Fund	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease
	Anticipated		Anticipated		Anticipated		

Assets Forfeiture Fund..... \$5,000 \$5,000 \$20,000 \$15,000

This budget activity includes resources for the payment of specific expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property that has been seized or forfeited under laws enforced by the Department of Justice. In addition, resources are included for non-asset management expenses authorized by 28 U.S.C. 524 (c)(1), including payments of awards for information and assistance leading to forfeitures; payments to equip forfeited conveyances for official use; and, purchase of drug evidence.

Long-Range Goal: The primary goal of this program is to utilize the capabilities provided in the Comprehensive Crime Control Act of 1984 for asset forfeiture as a deterrent to crime. Another goal is to provide and maintain sufficient resources to carry out the asset management responsibilities associated with all Department of Justice asset seizure and forfeiture initiatives. Still, another goal is to provide additional support for investigations and prosecutions through the payment of awards, the equipping of conveyances for law enforcement use, and the purchase of evidence, insofar as funds in excess of asset management expenses are available from the proceeds of the sale of forfeited assets.

Major Objectives:

- To pay asset management expenses incurred in seizing, managing, and disposing of forfeitable assets.
- To assist in further identifying forfeitable assets by paying awards for information and assistance leading to forfeitures.
- To equip, for law enforcement purposes, forfeited conveyances that are retained for official use.
- To assist in major drug-related investigations and prosecutions by making funds available to purchase evidence of violations of the Controlled Substances Act or the Controlled Substances Import and Export Act.



**Base Program Description:** This program, which will be administered by the U.S. Marshals Service under the policy direction of the Attorney General, provides a single funding source independent of seizing and litigative agencies' budgets for the payment of various expenses of the Department of Justice related to the seizure, detention, forfeiture and disposal of real and personal property, and other illegally owned assets. Most of these assets are forfeitable because they were used in, or acquired as a result of, violations of racketeering and drug trafficking statutes. This program complements the national forfeiture management organization within the Marshals Service which has been established to provide a centralized source of expertise, information and assistance in the management of seized and forfeited assets.

The identification, seizure and forfeiture of assets are playing an increasingly more important role in the Federal Government's efforts to stop crime and punish criminals. Hundreds of millions of dollars in assets are seized for forfeiture every year, but a suitable funding mechanism to provide asset management support for seizures and forfeitures and to encourage future asset forfeitures has been absent. A May 1983 study by the Department of Justice concluded that, of all the problems that have hampered the success of the departmental asset seizure and forfeiture initiative, the most far reaching was the lack of a suitable funding mechanism to support asset management functions. In the past, seizing agencies have paid maintenance, storage and disposal costs from budgets already strained with investigative and litigative expenses. While some asset management costs have been recoverable from sale proceeds, the outcome of forfeiture proceedings frequently preclude recovery of all expenses.

The Comprehensive Forfeiture Act of 1984 (P.L. 98-473, Chapter III) authorized a potentially potent remedy for past funding inadequacies by creating a special Assets Forfeiture Fund for the Department of Justice. This request is necessary because the Act amends the Comprehensive Drug Abuse Prevention and Control Act of 1970 by requiring that no funds be expended from the Assets Forfeiture Fund without an appropriation (28 U.S.C. 524 (c)(1)).

This funding will pay expenses directly related to seizure and forfeiture, such as the costs of inventorying, appraising, transporting, warehousing, guarding, managing and preparing for and advertising the sale of seized and forfeited assets. In addition, it is anticipated that sufficient funding will also be available for other purposes specified in the Comprehensive Forfeiture Act of 1984, such as payment of awards for assistance or information that leads to a successful forfeiture; equipping forfeited conveyances that have been retained for official use for law enforcement purposes; and, purchasing evidence of violations of the Controlled Substances Act or the Controlled Substances Import and Export Act. As the Department gains experience in applying the new provisions of the Comprehensive Forfeiture Act of 1984, it will be easier to project the levels of funds available for the purposes outlined in the Act.

Arrangements have been made with the Office of Management and Budget and the Department of the Treasury to pay liens and mortgages as well as redaction and mitigation expenses out of a suspense account since these expenses must be satisfied before the Federal Government can get clear title to the property subject to forfeiture. The requested appropriation language reflects this arrangement.

Accomplishments and Workload: The workload for this program is presented in the following table:

Item	Estimates		
	1983	1984	1985
Number of seizures (administrative and judicial)....	...	...	18,618
Number of forfeitures (est).....	...	...	12,474
Number of forfeited properties sold.....	...	...	11,724
Number of conveyances retained for official use.....	...	...	750
Number of conveyances equipped for official use.....	...	...	375
Number of awards paid.....	...	...	837

It is difficult, for a number of reasons, to estimate workload resulting from creation of the Department of Justice Assets Forfeiture Fund. First, it was only relatively recently that the need was recognized for a centralized inventory system for collecting and analyzing useful data about the costs and benefits of asset seizures and forfeitures. The U.S. Marshals Service is developing the National Asset Seizure and Forfeiture Program automated inventory system in order to collect and use this information. Second, while the number of investigations, in terms of the number of seizures, have grown steadily in the past several years, the success of government prosecutions, in terms of the number of forfeitures, is difficult to predict. This means, in turn, that predicting total expenses and total deposits from sales of forfeited assets is also difficult. Finally, Department of Justice investigative agencies are extending their reach in targeting assets for forfeiture, so that the kinds of assets seized, maintained, and forfeited are becoming more complex, time-consuming and expensive. Therefore, at this time, there is insufficient information about asset management expenses to accurately project either out-flow or an income-to-expense ratio of an operating Department of Justice Assets Forfeiture Fund.

Program change: A program increase of \$15,000,000 would provide resources for a full year of expenses covered by the Department of Justice Assets Forfeiture Fund. The object class distribution of this increase is as follows: Special Personal Services Payments (05 11.8) \$150,000; Travel and Transportation of Persons (00 21.0) \$300,000; Communications, Utilities and Other Rent (00 23.2) \$2,500,000; and, Other Services (00 25.0) \$12,300,000.

Legal ActivitiesAssets Forfeiture FundStatus of Congressionally Requested  
Studies, Reports, and Evaluations

The Comprehensive Crime Control Act of 1984 (P.L. 98-473) requires the Attorney General to report deposits to and disbursements from the Assets Forfeiture Fund. The U.S. Marshals Service has been assigned this task and data collection will begin upon appropriation of the Fund. A report will be prepared four months after the close of the fiscal year.

Legal Activities

Assets Forfeiture Fund

Summary of Requirements by Object Class  
(Dollars in thousands)

<u>Object Class</u>	<u>1985 Estimate</u> <u>Workyears Amount</u>	<u>1986 Estimate</u> <u>Workyears Amount</u>	<u>Increase/Decrease</u> <u>Workyears Amount</u>
11.8 Special personal services payments....	...	...	...
Total, workyears and personnel compensation.....	50	200	150
21 Travel and transportation of persons..	100	400	300
23.2 Communications, utilities and other rent.....	750	3,000	2,250
25 Other services.....	4,100	10,400	6,300
Total obligations.....	5,000	20,000	15,000
Relation of obligations to outlays:			
Obligated balance, start-of-year.....	...	113	
Obligated balance, end-of-year.....	-113	-269	
Outlays.....	1,887	19,644	

## GENERAL STATEMENT

Mr. DWYER. We are pleased to welcome to the Committee today, the Director of the United States Marshals Service, Stanley E. Morris. Mr. Morris, you have a prepared statement, but proceed in your own way.

Mr. MORRIS. Thank you. I would like to provide for the record a statement on the 1986 budget request.

I am pleased to have the opportunity to appear before you in support of the 1985 supplemental request for the United States Marshals Service. The supplemental before you today requests an additional 374 positions and \$8,138,000 to support the increased workload generated by the passage of the Comprehensive Crime Control and Federal Judgeship Acts of 1984. The Marshals Service serves as the critical enforcement link in the Federal criminal justice system and the passage of these Acts has created an immediate and uncontrollable workload crisis in the Marshals Service requiring additional resources.

Since 1979, across-the-board, our uncontrollable workload reveals a 50 percent increase in the demands placed upon a work force that has actually declined 5.3 percent in recent years. Also, included in our 1985 request is the proposed rescission of \$516,000 in accordance with the Deficit Reduction Act.

To keep the Federal criminal justice system functioning, we have taken steps to reduce all non-critical workload by removing deputies from unnecessary court proceedings, shifting the service of lower priority process to the private sector and implementing management efficiencies wherever possible. Through improvement in the National Prisoner Transportation System between 1981-1984, even though our prisoner workload has increased dramatically, the number of workyears devoted to prisoner movement has been reduced by over 40 percent. Despite these efforts, the Service is totally unable to absorb the impact of these new responsibilities and in some cases we are running on the rims in getting our job done. This supplemental request reflects the level of staffing necessary to implement and support this new legislation.

## COMPREHENSIVE CRIME CONTROL ACT

At the height of the many challenges facing the Service, the Comprehensive Crime Control Act is placing severe demands on the Service primarily through the bail reform and forfeiture provisions of the Act. As you are aware, Mr. Chairman, 146 positions and \$3,251,000 of this supplemental has already been presented to this subcommittee as an emergency request.

The bail reforms require court officers to consider the safety of people in the community as well as the potential for a person to fail to appear for trial when making release or detention decisions. In effect, bail release procedures have been tightened up with a resultant increase in the number of persons detained. In addition, detained prisoners under the Act have the right to an immediate detention hearing before a magistrate, a second hearing within three days and the right to appeal a detention order to a Federal judge.

These new entitlements have had a major impact on the workload of the Service as evidenced by operational data just obtained

from our 94 operating district offices. Statistics gathered through February 1985 show an 11.1 percent increase in the total number of prisoners committed to the Marshals Service as a result of the new detention hearings, detention appeals, and bond revocations. Prisoners produced for detention hearings and directly related proceedings totaled 32,000 additional prisoner productions on an annualized basis. In addition, deputy marshals provided protection at 1,597 separate detention proceedings in January 1985 and 1,590 in February, an entirely new responsibility for the Service. To support the bail reform provisions, 146 positions and \$3,251,000 are required. As I mentioned, the Subcommittee has already acted on this.

#### JUDICIAL SECURITY

In direct relation to the bail hearings, courtroom security must be increased to support the criminal justice system at a time when threats against judges have increased an alarming 32 percent between 1983 and 1984. The Judicial Security program must ensure the integrity of the judicial process and the safety of judges and other court officers, spectators, and witnesses whose lives are endangered by the individuals processed through the system.

The truth is bombs have been found in courthouses. Court buildings have taken rocket attacks, and no day passes since I became Director in which some judge has not been under 24-hour-a-day protection. Security is accomplished by around-the-clock protective services details for threatened persons, use of specialized security equipment, and the assignment of increased numbers of deputy U.S. marshals and inspectors in and around the courtrooms.

Because of this ongoing hostile environment, we have established intelligence analysis capabilities so that we can quickly assess threats—separate cranks from those that are real and respond appropriately. Individuals denied bail under the new bail bond provisions are proved to be either a danger to the community or are potential bail jumpers. For the increased workload in Judicial Security 23 positions and \$513,000 are necessary.

#### ASSET FORFEITURE PROGRAM

An important component of this Administration's assault on organized crime and drug trafficking has been not only to target top level criminals but to seize all their ill-gotten assets as well. Consequently, no longer are seized assets simply boats, planes and automobiles, but increasingly they are ranches, businesses, estates, works of art, condominiums, etc. The responsibility for seizing, managing, and finally disposing of these assets has been given to the U.S. Marshals Service.

In the Comprehensive Crime Control Act, Congress established a fund to provide resources to manage these assets so that when they are finally disposed of, the taxpayers will receive full value. For example, if a ranch is seized but the livestock allowed to die or a business is seized but permitted to fail, then the full value is lost.

Even before this program began, the Marshals Service had over \$130 million worth of assets in its inventory. As the U.S. Attorneys and investigatory agencies become more vigorous, I do not think it

is unreasonable to predict that the Marshals Service will be managing and ultimately disposing of assets whose value will approach one half billion dollars. To establish a nationwide seized asset management system for coordinated seizure and forfeiture activity, we request 132 positions and \$2,546,000.

#### FUGITIVE INVESTIGATIONS

The Act further requires mandatory sentencing of persons convicted of bail jumping. Heretofore, the courts have not pursued prosecutive efforts in bail jumping cases. This mandatory sentence will require Marshals Service investigators to produce the timely and substantial information needed to prosecute, convict and sentence the offender. Preparation of such an investigative report involves interviewing witnesses and collecting evidence to support further action by the U.S. Attorney. For this new workload, 14 positions and \$312,000 are requested.

These numbers equate to significant, immediate additional workload for this agency. We are dealing with these requirements by heavy use of overtime, and the hiring of part-time guards. Almost 25 percent of our workyears is in those two areas. Meanwhile, the dangerousness of the criminals we are handling is increasing. Organized crime figures, terrorists, drug traffickers—including many Columbians resulting from the new extradition cooperation—are examples of some of the dangerous prisoners we are charged with securing.

It is interesting to note that since enactment of the legislation we have in our custody a prisoner load increase of about 17 percent over what we had last year. Within the last couple of days, the Bureau of Prisons indicated that their Federal jails in the five locations where we have them are looking at a prisoner load increase of about 17 percent as well.

#### NEW JUDGESHIPS

The Bankruptcy Amendments and Federal Judgeship Act of 1984 created 85 new judgeships. Established courtroom security procedures as well as the historical workload in the areas of process, prisoner handling, etc., dictate the need for 59 additional positions and \$1,516,000. The additional judges will produce at least a 12 percent increase in our court-related workload.

Security of the judiciary and the criminal justice system is our highest priority. In addition to the workload generated by these judges, the Marshals Service must see that justice is dispensed safely and securely. As I mentioned previously, the Marshals Service has continually provided 24-hour-a-day protection to members of the judiciary during the past year. Provision of adequate resources to carry out these responsibilities is critical.

#### SUPPORT OF U.S. PRISONERS

The 1985 supplemental request for the Support of U.S. Prisoners appropriation proposes the transfer of \$3,688,000 to other Justice appropriations as a result of a reexamination of the estimated 1985 jail day rate. One reason that our estimates of how much money

we will be spending in this area were off is that approximately 45 percent of prisoners in our custody are confined in Bureau of Prison facilities. That is approximately 300 a day more than we anticipated originally.

One reason for the increased use of Federal institutions is the inadequate jail space that exists in a number of locations around the country. Our CAP Program and Excess Property Program and the way we have dealt with simplifying contracts with local jails and the reduced inflation rate have all combined to permit a savings in this area, although quite candidly, Mr. Chairman, members of the committee, some of that savings is really due to costs being pushed off to the Bureau of Prisons who are housing our prisoners in many cases where it was not in our original plan.

#### ASSET FORFEITURE FUND

Also included in this request is \$5 million for the Department of Justice Assets Forfeiture Fund also created by the Comprehensive Crime Control Act of 1984. This funding was included as a part of the emergency supplemental already considered by this subcommittee.

The establishment of this Fund has the potential, I believe, to become one of the most effective steps taken by the government to fight organized and drug related crime and to make a contribution in reducing the deficit. In a recent year, the U.S. Marshals Service had legal custody of property valued at over \$130 million as I previously mentioned.

This included real property worth more than \$40 million in cash; hundreds of cars, boats and aircraft, valued at more than \$33 million; jewelry, gems and precious metals worth almost \$1 million; artwork, historic artifacts and antiques; thousands of weapons; and \$7 million worth of other miscellaneous items, from pornography to perfume; tires to typewriters; stereos to savings bonds.

Five million dollars has been requested of the Subcommittee to help us deal with the management, seizing, detention, inventory, safeguarding, maintaining, advertising or selling property that has been forfeited, and other expenses authorized by the Act. In essence, this Fund will utilize the proceeds from crime to combat crime. The recent seizure of a \$2.5 million farm near here in Loudoun County, Virginia, is a perfect example of the valuable property to be maintained by the Fund.

I have presented, Mr. Chairman, the supplemental needs of the Marshals Service, The Department of Justice and I feel these needs are essential and immediate in order to allow the Service to continue viable functioning in 1985 and set at least a foundation to continue in fiscal year 1986. This concludes my statement. I would be happy to try to answer questions you and Members of the Committee may have.

[The prepared statement of Mr. Morris follows:]



## DEPARTMENT OF JUSTICE

STATEMENT OF THE DIRECTOR, UNITED STATES MARSHALS SERVICE  
STANLEY E. MORRIS  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
THE DEPARTMENTS OF COMMERCE, JUSTICE, STATE,  
THE JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before you in support of the 1986 appropriation request for the United States Marshals Service. The request before you today provides for 2,579 positions and \$144,589,000--a net increase of \$4,640,000 over the 1985 appropriation anticipated of 2,579 positions and \$139,949,000. This request includes \$9,256,000 for uncontrollable increases, nonrecurring decreases and savings from management initiatives of \$3,110,000, and a program decrease of \$1,506,000.

This request represents a modest but essential increase in funding only--not positions--which is critical to the continued accomplishment of our federal criminal justice responsibilities in a climate of rapidly growing and changing workload.

Witness Security

Today, as importantly as ever the Witness Security program is furthering the government's prosecution of international drug smugglers as well as the traditional organized crime families. This often misunderstood program provides the only vehicle to permit government witnesses to testify in relative safety against organized crime, drug trafficking or related violent criminal activity. Witnesses and their families are

relocated, given new identities, and assisted in becoming self-sustaining as quickly and safely as possible. Throughout this program's history, no witness has ever been killed or compromised while under our protection or following our protective guidelines. Passage of the Comprehensive Crime Control Act of 1984 added a new workload element child visitation responsibilities to the basic program services provided. The Department of Justice is exploring ways to meet the anticipated funding needs brought about by this portion of the Act in 1985 and 1986.

#### Fugitive Investigations and Court Orders

In only the last five weeks the Marshals Service has arrested 5 federal fugitives from its list of the 15 Most Wanted. Since the program began in February 1983, 19 of these high profile fugitives have been arrested. The fifteen Most Wanted list is used to place special emphasis on certain fugitives. The Marshals Service continues to apprehend many fugitives each year arresting over 7,000 felons in 1984 alone.

The Fugitive Investigations and Court Orders program coordinates the enormously successful Fugitive Investigative Strike Team (FIST) which apprehends career criminals who commit a disproportionately high number of crimes. The most recent operation was dubbed "the largest manhunt in history". The seven FIST's have netted 7,446 fugitives in the 62 weeks in which the teams were active. On the average, over 120 federal and State fugitives were removed per week during the operations. The average cost per arrest is only \$786.

Extraditions are another area under stress. The recent Colombian extraditions performed by the Marshals Service have added a new degree of danger to this programmatic responsibility which necessitates elaborate security measures and additional personnel to accomplish the extradition safely.

#### Judicial Security

The Marshals Service, has no higher priority than Court Security. The number of threats against the judiciary is steadily escalating each year. In addition to providing personal security to over 1,700 federal judges, magistrates, and other members of the judiciary, U.S. marshals frequently deter courtroom disturbances, monitor fixed and mobile electronic detection equipment, and conduct detailed physical surveys of federal court buildings. A number of potentially dangerous incidents have been averted in courtrooms around the country by development of the Court Security Officer Program. In the Eastern District of Pennsylvania alone CSO's confiscated 563 guns, 2,420 knives, quelled seven disturbances and made three arrests. This program is funded through the Administrative Office of the U.S. Courts.

#### Handling of Federal Prisoners

The numbers of prisoners received, processed and moved continues to increase complicated by the intricate security measures and long distances a prisoner must be moved. To expand and sophisticate the movement of prisoners and make the best use of limited resources the Service has expanded its air operation to include six two engine six passenger aircraft, three single

engine aircraft in addition to the 50 passenger convair we charter.

This expanded air program has allowed us to move prisoners more safely and more efficiently.

#### Organized Crime Drug Enforcement

Marshals Service personnel continue to be an integral part of the Task Force fulfilling an essential role in day-to-day operations. After the OCDE task force made federal escapee Harold Rosenthal its primary target, Marshals Service personnel were able to detain him in Colombia, S.A., and subsequently extradited him back to the States under maximum security.

#### Management and Administration

The 1986 appropriation request includes a program decrease of \$1,506,000 in keeping with a government-wide management improvement initiative. This reduction will be accomplished in administrative areas which do not have a direct impact on the operational mission such as EEO; personnel; health and safety; and audit and compliance.

#### Support of United States Prisoners

The request for the Support of United States Prisoners appropriation is \$58,240,000, an increase of \$319,000 over the 1985 appropriation anticipated of \$57,921,000. This request includes \$5,319,000 for uncontrollable increases, a nonrecurring decrease for the CAP program of \$10,000,000 and a program increase of \$5,000,000 for new CAP initiatives. The jail space

crisis continues but its rapid growth has been stayed in part due to the Cooperative Agreement Program. A \$5,000,000 program increase in CAP would continue to provide the Service with a bargaining tool to obtain guaranteed space in critical shortage areas.

#### Assets Forfeiture Fund

The Comprehensive Crime Control Act (P.L. 98-473) of 1984, established the Assets Forfeiture Fund which is viewed as potentially one of the most effective tools the government has to combat crime. In summary, the fund will be established from the net proceeds of forfeitures of property or cash derived from illicit activities. From those net proceeds we propose to use \$20,000,000 for asset management expenses incurred in seizing, managing and disposing of forfeitable assets and other expense permitted by the Act. To the extent funding is available this fund can be utilized for payment of information and awards, to equip forfeited vehicles for law enforcement use and for the purchase of evidence. The remainder will be transferred to the general fund of the Treasury.

#### Conclusion

This concludes my prepared statement, Mr. Chairman. I shall be pleased to answer any questions the Subcommittee may have.

## SEIZED ASSETS

Mr. DWYER. Thank you, Mr. Morris. Regarding the seized assets, I see you are asking for a supplemental of \$2,546,000 and 130 new positions. Can you use any of these seized assets paying for this part of the program?

Mr. MORRIS. You can't use the proceeds from the sale of forfeited assets to pay for salaries of Federal employees. What we can use the proceeds from the sale of forfeited assets for would be to basically manage the assets or pay for the appraisers, etc. Most of what we are going to be doing in the program is basically paying through contracts for other people to run the ranch or run the restaurant or warehouse until they can be disposed.

In many cases, we will be hiring appraisers and auctioneers and others, people who are more experienced than we in the Marshal Service are in running businesses and disposing of them.

Mr. DWYER. How much money has been expended in that way in the past fiscal year?

Mr. MORRIS. This Fund does not begin operating until the actions on appropriations by the full House and Senate are completed. We do have an ongoing program we have handled historically. I don't have specifically the amount of monies we have spent to run the program as it exists. One problem and the reason the Congress acted to establish this Fund was because there was no specific appropriation there, was little incentive for agencies to try to take care of a farm or vehicle unless they were going to use it, because the agency would have to take that out of their regular appropriation, for example travel or salaries of investigators. That was not what the agency's major purpose was.

## CALCULATION OF SUPPLEMENTAL REQUESTS FOR NEW JUDGESHIPS

Mr. DWYER. Your supplemental request of \$4,877,000 regarding the new judgeships, what was your assumption as far as judge work years were concerned to arrive at that amount of money?

Mr. MORRIS. We took a look at what the average workload of a district judge is. We have very little relationship to circuit court judges, so we looked at what the 61 additional Federal district trial level judges produced and their impact on our workload in terms of number of prisoners to be produced, numbers of trial days that they would normally handle and the like, all of which affect us, led us to—basically it ends up as a 1 to 1 measure. One deputy per judge, but that was not the way we arrived at it. We arrived at it through workload measures of various components and then computed that.

Mr. DWYER. My question was how many judges do you anticipate being appointed in 1985, fiscal year 1985? Do you anticipate all 1985 judgeships to be filled?

Mr. MORRIS. Well, I know that speaking recently with the chief counsel of the Senate Judiciary Committee, the Attorney General of the United States and Chief Justice of the United States, they are going to try to fill them all. We assumed by the end of the fiscal year the vast majority of the positions would be filled.

Now, there are a number of vacancies, as you know, on the bench in addition to these that have occurred through attrition. But I assure you the workload is there.

#### PAY INCREASE COSTS

Mr. DWYER. How do you anticipate paying for the 3½ percent pay raise given Federal employees in fiscal year 1985?

Mr. MORRIS. In our supplemental there is an increase of \$2,146,000. We are being asked to absorb approximately \$91,000. That will take care of the supplemental for this fiscal year. Then it is built into the base in 1986.

Mr. DWYER. The absorption of the \$91,000, will that impact your programs in any way?

Mr. MORRIS. I think we can find in a base as large as ours a way to come up with some savings to pay for that.

#### PROPOSED RESCISSION

Mr. DWYER. You are proposing a rescission of about \$516,000 in fiscal year 1985. What impact will that have on you?

Mr. MORRIS. That is a direct result of the Deficit Reduction Act, which I think was enacted last year. The largest impact will come in travel, which I think is dictated as a percentage in the statute. About \$400,000 of the \$500,000 comes out of travel. That pinches, quite candidly, Mr. Chairman. But that was the direction that the Congress took when they enacted that legislation. And we will carry it out.

#### TRANSFER FROM SUPPORT OF PRISONERS

Mr. DWYER. You are again, in the 1985 supplemental, requesting a transfer of \$3,683,000 out of the Support of the United States Prisoner appropriations, various other appropriations in the Department of Justice. You state that this is a result of the reexamination of the estimated 1985 jail day rate. How much has the rate decreased?

Mr. MORRIS. Well, the rate has been moving around a bit, Mr. Chairman. We believed that we would not have as many people in Federal institutions as we in fact have to date, approximately half of that is a result of that. That is, when we have a prisoner in, Milan, Michigan, Bastrop, Texas, Terminal Island in Los Angeles, or other Federal institutions, we don't pay a day rate.

If we had them in a local jail, we could be paying anywhere from \$30 to \$50 a day. So that was part of the reason. The fact that we have been pushed out of a number of local jails is combined with the fact that inflation slowed down. And that dampened the growth in the daily rates charged by the local jails.

Another reason is that we have had some success in our working relationship with local sheriffs and counties. One, we have reduced significantly the amount of paperwork that they have to fill out to do a contract with us. It used to be 60 and 70 pages. We have got it down to about 3 to 4 pages. It is not a regular contract. It is a continuing intergovernmental agreement. As a consequence, it doesn't

require renewal or renegotiation on a regular annual basis. So as a result of that, I think we have dampened the day rate.

Finally, as I mentioned in my statement, the Cooperative Agreement Program and Excess Property Program by which we take property that the Federal Government no longer needs, whether it is tennis shoes or clothes or medical equipment, and give that to local jails has developed, I think, a spirit of cooperation which has dampened their interest in raising the rates, unlike what we had assumed when we came up with the original numbers.

#### PROTECTED WITNESS PROGRAM

Mr. DWYER. Mr. Early?

Mr. EARLY. Thank you, Mr. Chairman. Mr. Morris, the justifications indicate that the Marshals Service reactivated 102 witnesses for new threats or other reasons. What is used to make this determination?

Mr. MORRIS. Whether to reactivate them?

Mr. EARLY. Yes.

Mr. MORRIS. Well, a couple things occur. One is witnesses lose their job. A problem arises or a new threat occurs. Then they become reactivated, and we take care of the changes. These are witnesses whom we relocated. Another reactivation might be that the U.S. Attorney has decided that he has another case for which that witness' testimony would help the United States in its presentation.

Sometimes that will encourage them to require us to maybe relocate them or reminds them that they can come back actively into the program.

Mr. EARLY. What is the average cost of these witnesses?

Mr. MORRIS. Well, about \$40,000 from this appropriation for witness. On a new witness coming into the program, we pay approximately—for a family of three—about \$1,500 a month while they are in the process of getting a new job and relocating. They stay in the program, a little over a year, up to a year and a half. Hopefully through training and through other things, we will get them regular jobs and allow them to start new lives.

Mr. EARLY. Would you elaborate a little more on that for the record?

Mr. MORRIS. Yes, sir.

[The information follows:]

#### AMOUNTS SPENT FOR PROTECTED WITNESSES

The Marshals Service expends, on an average, close to \$100,000 per year for services and protection to each active witness in the Program. The average length of time a witness receives funding is 13-17 months. During this time witnesses are provided physical protection while in a danger area for court related appearances; relocation to a safe area; secure movement of household goods; documentation papers in a new identity and medical, dental and psychiatric counseling if necessary. Once relocated, the witnesses are encouraged to seek employment as soon as possible. The Service provides employment counseling, job contacts and interviews assistance. Unemployable witnesses receive job training; counseling and assistance with job placement after training.

Of this \$100,000, approximately \$60,000 is expended for services to the witness from the Fees and Expenses of Witnesses appropriation; approximately \$40,000 is expended for personnel costs and travel expenses from the Salaries and Expenses of U.S. Attorneys and Marshals appropriation.



## FUGITIVE INVESTIGATIVE STRIKE TEAMS

Mr. EARLY. How many fugitive investigative strike teams do we have?

Mr. MORRIS. We are starting our eighth FIST Program beginning today.

Mr. EARLY. Do we have one in Boston?

Mr. MORRIS. No, we completed one last October in which we made some 3,300 individual felony arrests in a seven-state area including Massachusetts down to Pennsylvania and Maryland.

Mr. EARLY. In total, how many does the Marshals Service plan to establish?

Mr. MORRIS. Well, these are not permanent programs. That is, we go in and set up what is a 10-week round up in which we bring in people from out of district, plus dedicate people in the district to work jointly with state and local officers in partnership. They identify their worse fugitive felons, we identify ours. We cross deputize their officers. We make them special deputy U.S. marshals. For 10 weeks their officers and ours work in the same cars, the same command posts, going out and arresting felons.

Mr. EARLY. From the number of arrests you had, it would appear that they are not doing such a great job of hiding.

Mr. MORRIS. You can say that. I like to think we and state and local law enforcement do this job quite well. I will tell you in all candor that the reason we can make 3,300 arrests in a 10-week period is that local law enforcement has not been funded adequately to deal with this problem.

There are a number of reasons for that. The problem is much more severe at the state and local level than it is at the Federal level. The growth in the number of fugitive felons reported in the National Crime Information System has risen from 180,000 to 210,000, an 18 percent increase in 3 years.

The reason is not as simple as I am going to make this sound. One reason is that because of what I refer to as the fire engine approach to law enforcement; that is the local police officers racing to deal with the latest crime. And when a person has been brought in, brought before a judge, if that person skips out, whether he escapes or whether he fails to appear for a trial, or he violates his probation or parole or for whatever reason, nobody is dedicated to finding him.

Mr. EARLY. You mean, Mr. Morris, unless they get their name in the paper.

Mr. MORRIS. Or get picked up on a random traffic stop. What that does, Congressman Early, I believe is make a farce of the system of justice. We have got a situation in which we have invested a lot of money, often an investigation has been made here, court time, jurors, et cetera. And the individual basically skips and nobody spends time and attention trying to catch him.

One of the issues we have tried very hard to raise when we run these FIST operations is to raise the profile at the local level—local politicians and judges and those interested in criminal justice to make the public and politicians understand that the system is out of balance.

It also has pointed out a severe problem which we have in Connecticut and Massachusetts and around the country. And that is that too often the localities have not kept pace in terms of adequate jail facilities. And as a consequence a lot of judges are faced with a situation in which they simply have to let the crook run.

Mr. EARLY. Don't a lot of judges promote the same policy because they feel pressure to help empty the jails?

Mr. MORRIS. What happens, it is usually the Federal judges who are emptying the jails based on the judgment that the jails, because of overcrowding or for whatever reason, don't meet constitutional standards.

Mr. EARLY. They will empty the jail, but at the same time present a rationale to get enough personnel to have everything they need for their courtrooms. We won't talk about—

Mr. MORRIS. Good.

#### SERVING PROCESS

Mr. EARLY. I understand that in 1984 the Federal Rules of Civil Procedure were changed to relieve the Marshals Service from serving process on behalf of private parties. Yet, the justifications indicate that an offering of 10,000 pieces continue to be handled each month. Why is that?

Mr. MORRIS. Well, the legislation helped us significantly in reducing the amount of time we spent out serving process—from about 260 workyears down to about 70. So the legislation had a significant positive impact on the service. But the fact is that we continue to serve a lot of process, and a lot of private process in those places where the mail service is inadequate. And the fact is that we are in a situation in which we find ourselves charging only \$3 for the service of process which, if it were contracted out to the private sector, would go for \$20 to \$21.

We are exploring with the Department of Justice some authorizing legislation that would further reduce that workload.

#### SEIZURE OF LEGITIMATE BUSINESSES

Mr. EARLY. Mr. Morris, I have an awful lot of problems with your response to the Chairman, not a problem with your department, but as far as this new act that goes into effect where, in the case of any organized crime individual convicted, we are going to confiscate legitimate businesses.

Are you anywhere ready to assume that? I mean as you said in your statement, you can't run farms, you can't run ranches. Now you know—just how is that going to work?

Mr. MORRIS. Well, what we are developing and we have had a pilot program going on in the last year which was authorized by this Committee allowing us 45 positions—

Mr. EARLY. Is that the ranch you spoke about.

Mr. MORRIS. Yes.

Mr. EARLY. Would you tell us who specifically is running that ranch?

Mr. MORRIS. What we would do, the first thing that has to be done when we go out and serve the writ.

Mr. EARLY. Would you answer, though, specifically, about that ranch?

Mr. MORRIS. Yes, I will try. First of all, after the property is seized legally and comes into our custody, the first thing we would do is go out and hire an appraiser to inventory and determine the value of the property. Everything from the livestock to the buildings on the facility, the ranch houses through to the tractors through to whatever is in the House, a full inventory and appraisal.

We will hire a security force to go out and assure that none of the goods, none of the property that is in our custody gets stolen or destroyed. We will then hire a neutral party who may have been employed on the ranch, or we will hire somebody specifically to manage it for us.

In many cases we get a seizure which is an ongoing business. The ranch we seized in Texas a year ago called the DKG ranch was an ongoing business. In that case, we hired an auditing firm to audit the books. There we are simply paying the bills, overseeing the activity of the ranch.

Mr. EARLY. Is it producing revenue?

Mr. MORRIS. Some revenue.

Mr. EARLY. Where is that revenue going? Does that go to cover the expenses?

Mr. MORRIS. Yes.

Mr. EARLY. I want to come back to that. I have used my 10 minutes, Mr. Chairman.

#### SEIZURE OF PROPERTY BELONGING TO THIRD PARTY

Mr. DWYER. Mr. O'Brien.

Mr. O'BRIEN. With respect to that property, Mr. Morris, do you ever encounter property that may not be the property of the person from whom it was seized?

Mr. MORRIS. Yes. That, of course, is one of the reasons there is quite a length of time between the actual seizure of the property and its disposition, because there are often many liens and interests in the property by other people saying, well, this is mine or this part is mine. All of those things have to be adjudicated through the courts before an order is finally returned to us for final disposition. And the proceeds then are placed in the Treasury.

Mr. O'BRIEN. When you say adjudicated in the courts, if someone comes to you, say, with respect to this ranch and says the contents of such and such a building belongs to me, stolen from me, do you require them to go to court before they can recoup it?

Mr. MORRIS. Yes, sir.

Mr. O'BRIEN. Irrespective of the evidence that they can produce?

Mr. MORRIS. We are seizing this on behalf of the United States based on a warrant in forfeiture, that has to be adjudicated through the courts, unless the U.S. Attorney determines that forfeiture is unwarranted and seeks to amend the warrant.

Mr. O'BRIEN. The party, then, who goes to court establishes his or her right to that property, that particular party then has to pay the cost of recoupment himself or herself; is that right?

Mr. MORRIS. Yes, Congressman.

Mr. O'BRIEN. If you have the property and I claim it as mine and you require me to litigate, that costs money. If it turns out my representations are clean, that they are very good, that the court agreed with me, is the cost of that recoupment borne by me?

Mr. MORRIS. Yes, unless the court decides otherwise.

#### EXTRADITION TREATY WITH COLUMBIA

Mr. O'BRIEN. I understand that we have got an extradition treaty going with the Columbian government now.

Mr. MORRIS. Yes.

Mr. O'BRIEN. That is going to have quite an impact on your assignment, is it not?

Mr. MORRIS. Yes.

Mr. O'BRIEN. Are you asking for additional positions on account of it?

Mr. MORRIS. No, we are not. We will accomplish approximately 120 extraditions this year. Most of that is shown through the travel and overtime for the deputy marshals who are sent abroad to pick the people up and return them to this country. That is in our base operation.

Mr. O'BRIEN. Thank you, Mr. Chairman.

Mr. DWYER. Mr. Smith?

#### SEIZED FIREARMS

Mr. SMITH. What do you do with arms that you confiscate?

Mr. MORRIS. Fire arms?

Mr. SMITH. Yes.

Mr. MORRIS. I think the answer to that is a variety of things. I know in some cases where we have seized large amounts of weapons that could be used for law enforcement, they would be turned over to law enforcement agencies. I know a while back a number of automatic weapons were seized which were pressed into service. If they are collector's items, antiques, I think they are disposed of through normal procedures.

If they are not, then they are destroyed.

Mr. SMITH. Quite an elaborate process, is it?

Mr. MORRIS. I don't know the answer to that, Mr. Chairman.

Mr. SMITH. But you don't sell revolvers unless they are antique or usable by law enforcement?

Mr. MORRIS. I am not aware that we have done that, No.

Mr. SMITH. Do you destroy them?

Mr. MORRIS. Yes.

Mr. SMITH. Those are all the questions I have.

#### CALCULATION OF FUNDING REQUIREMENTS FOR ASSETS FORFEITURE FUND

Mr. DWYER. You propose an appropriation of \$20 million from the net proceeds of the assets management fund. How did you arrive at \$20 million?

Mr. MORRIS. Well, it was based upon the experience we have had over the last year and our estimate of what the overall amount of seized activity might be. We are, I will be quite candid with the

committee in saying we are starting here with not a lot of information on which to base this amount. Our assessment was that that would be clearly adequate in 1986, and then we would be able to present to the Committee next time we are here some experience with this.

As I mentioned in my statement, it is my belief that this program is going to grow significantly in the months ahead. But we really don't have any experiential base to be very firm on that. It is an educated guess.

#### REDUCTION IN THE COOPERATIVE AGREEMENT PROGRAM

Mr. DWYER. You are proposing \$5 million for the Cooperative Agreement Program. Last year, Congress appropriated \$15 million for the program. You mentioned in your statement the continuing jail crisis. How come the reduction of \$10 million?

Mr. MORRIS. Well, I think that we have spent now some \$37 million in this program and acquired about 2,300 beds, the average cost being just under \$16,000 per bed, which actually is quite inexpensive given what construction for jail beds runs in this country, anywhere from \$40,000 to \$60,000.

I think that part of the reason that the number is less than the Congress had last year is an effort to try to keep the Department of Justice budget down. But it is also a recognition that this program is needed to continue. I think it was a balance between our sense of how much we had spent in the past. We have a funding balance currently of about \$15 million in 1985, which has not been fully obligated to date.

#### CHILD VISITATION PROGRAM

Mr. DWYER. You also referred to the Child Visitation Program in your statement. Yet there is no appropriation for that. Do you anticipate any Agency involvement in this program?

Mr. MORRIS. We are looking at the data in terms of what it is likely to do in terms of an impact on the Service. There is some \$700,000 or so in the Fees and Expenses of Witnesses appropriation to take care of the fees to witnesses and children. We are looking at a reasonable estimate of what that might be and are discussing with the Department the best way we can to figure out how to deal with the problem, but we don't have a proposal to present to the Committee.

#### DKG RANCH

Mr. DWYER. Mr. Early?

Mr. EARLY. Thank you, Mr. Chairman. Mr. Morris, how long have you had that ranch you spoke of—the one you are contracting out for management?

Mr. MORRIS. The DKG ranch?

Mr. EARLY. The one you have had the longest.

Mr. MORRIS. About a year.

Mr. EARLY. Are we trying to sell it?

Mr. MORRIS. Not yet. This is one of the phenomena Congressman O'Brien pointed out that there is a lengthy time it takes to work through the judicial system.

Mr. EARLY. Are you going to dispose of it?

Mr. MORRIS. As soon as the court authorizes it.

#### SPECIAL OPERATIONS GROUP CENTER

Mr. EARLY. Have you had training at the special operations group center?

Mr. MORRIS. Yes, we have had a number of training sessions. We have been providing training to the Immigration and Naturalization Services Border Patrol at our facility.

Mr. EARLY. Have you been able to meet your requests?

Mr. MORRIS. Yes.

Mr. EARLY. Do we have any overlap with the FBI program?

Mr. MORRIS. No.

Mr. EARLY. How much has been allocated to this program for 1985 and 1986?

Mr. MORRIS. Specifically, for the training at—

Mr. EARLY. Yes.

Mr. MORRIS. I don't have that. I will provide it.

[The information follows:]

#### RESOURCES USED IN 1985 TO SUPPORT SPECIAL OPERATIONS TRAINING

The Marshals Service will expend approximately \$530,000 in FY 1985 to support the Special Operations Group training center. Included in this amount are costs for SOG personnel located at Camp Beauregard; reimbursable costs to the state of Louisiana for use of the facility; and travel expenses of USMS personnel to attend training at the center.

#### TRAINING OF FOREIGN LAW ENFORCEMENT PERSONNEL

Mr. EARLY. I see that the State Department has requested that the special operations group assist with the training of foreign law enforcement personnel through the Anti-Terrorism Assistance Program. To what extent has the service been involved in training foreign law enforcement personnel in the past.

Mr. MORRIS. Well, their counter-terrorism office has asked us if we would be available to do that. We told them, yes, we would try to provide that to the extent we can, meeting our immediate needs first, on a fully reimbursable basis. However, we have not provided any training to them.

Mr. EARLY. So this is a new program.

Mr. MORRIS. Yes.

Mr. EARLY. I see.

Mr. MORRIS. But we have provided some training at the Federal Law Enforcement Training Center in Georgia for a number of El Salvadorans to help them on court security at the request of the State Department. And we have provided some training to Canadian officials, Australians and others.

Mr. EARLY. Who will pay for the training?

Mr. MORRIS. The State Department.

Mr. EARLY. They will reimburse you.

Mr. MORRIS. Yes.

Mr. EARLY. Have we broken down the costs?

Mr. MORRIS. I don't recall specifically what were the El Salvadoran training costs. But the Marshals Service is too small to do something for nothing.

Mr. EARLY. Is this a one-time request or do you know?

Mr. MORRIS. Ambassador Markey has told me it is intended to be an ongoing program for which they are seeking assistance from all the Federal law enforcement agencies that have some training capacities.

Mr. EARLY. What impact would that have on domestic law enforcement training needs?

Mr. MORRIS. I don't believe it would have any impact.

Mr. EARLY. So you are not rejecting any request for domestic training.

Mr. MORRIS. First priority is for domestic law enforcement. It would only come in those time periods in which we have excess capacities.

Mr. EARLY. So, no domestic application has been rejected.

Mr. MORRIS. That's correct.

Mr. EARLY. I have no further questions.

Mr. DWYER. Mr. O'Brien?

#### JUDICIAL SECURITY

Mr. O'BRIEN. Mr. Morris, with respect to judicial security, you described in your statement dangerous incidents having been averted. Can you tell me a little about that?

Mr. MORRIS. Certainly. A couple years ago at the time that General Services Administration was making a number of cutbacks and one of the areas they were cutting back were the guard security perimeters of Federal courthouses. The Judiciary was quite unhappy with that proposal on the part of the GSA, and they began to complain to the Attorney General.

I was at the Department of Justice at the time. We tried to convince them we didn't have any more leverage over GSA than the judges did but the judges have more leverage over the Department of Justice, I guess, and asked us if they would fund if we would manage basically a Court Security Officers Program to take the place of—where GSA was removing their guard force.

We agreed to do that with the courts and they have sought and received from the Congress, I think, \$35 million. I think the request this year is \$35 million, which will allow us together to hire and fund about 1,000 court security officers in about 240 courthouses around the country.

We have operated the program, I think, extremely well, at least from the standpoint of what the judges felt was important, a security presence outside of the courts. This has been a great aid to us because controlling the perimeter is the most important first step in ensuring security. That is, if somebody has a weapon or bomb inside a courtroom with jurors and judges and public, you have basically lost the battle.

This basically has provided a cushion, a protection from the Marshals Service standpoint which is the security in the courtroom.

Mr. O'BRIEN. Do you use the airport devices?

Mr. MORRIS. Yes, we have magnetometers just like they have. The reason I was a little late getting in was due to X-ray devices here at the Capitol. Our program has gone extremely well. I will say there were a number of judges who did not feel at the outset that this program really met the decorum and dignity of the court.

Their sense was that this was the public's house and that the public ought to not have to be hassled in their entry, but a number of courts just like the Capitol itself have taken some assaults. We have found the number of weapons and knives and the like that people carry on them into courthouses is quite remarkable.

Mr. O'BRIEN. I think a couple of years ago in Chicago a judge was killed in his own courtroom.

Mr. MORRIS. Yes.

Mr. O'BRIEN. It was a state court.

Mr. MORRIS. That's correct. Judge McGar, I talked with him just recently, a metropolitan chief judge, in northern Illinois. We are making some real progress, I think, in providing security there. At the courthouse in Chicago it is difficult just as it is in Boston. I think we have got security plans which do not disrupt the public particularly.

In Boston, we have it off the courtroom floors. You have some of the same problems in Chicago.

#### WITNESS SECURITY

Mr. O'BRIEN. Let me just comment on one other statement. With respect to witness security on page 2 of your statement you say no witness has ever been killed or compromised while under our protection or following our protective guidelines. That is a very broad statement.

I assume you mean by protective guidelines, after your protection is terminated, and when their protection is mainly observing your advice.

Mr. MORRIS. Right.

Mr. O'BRIEN. As to how to behave, is that right?

Mr. MORRIS. That's right, staying out of the original threat area, not using their original name, severing all contacts with other people who knew them in the past, not returning to crime. Quite candidly, a number of witnesses become criminals again. They started out as criminals. They become criminals again. Some ended up in violent deaths.

But of those who stayed on the right side of the law, followed our rules and severed their relations with those involved in the original area, we are not aware of any case in which they have been compromised by those who originally threatened them.

Mr. O'BRIEN. Thank you, Mr. Morris. Thank you, Mr. Chairman.

Mr. DWYER. Thank you, Mr. Morris. We will have some questions and you can submit the answers for the record.

[The questions for the record and the answers submitted thereto follow:]



## QUESTIONS SUBMITTED BY CONGRESSMAN DWYER

UNITED STATES MARSHALS SERVICEIncreased Judicial SecurityQUESTION:

You are requesting an increase of \$513,000 and 23 positions for increased judicial security workload. How does this request differ from the request of \$1,516,000 and 59 additional positions related to the creation of the 85 new judgeships?

ANSWER:

The Marshals Service is requesting \$513,000 and 23 positions as a result of the passage of the Comprehensive Crime Control Act of 1984. This Act has increased the duration of bail hearings before magistrates, resulting in additional requirements for deputy U.S. marshals to maintain courtroom security during these hearings. The \$1,516,000 and 59 positions are exclusively for the support of the expanded workload brought about by the passage of the Bankruptcy Amendments and Federal Judgeship Act of 1984 which created the 85 new judgeships.

Assets Management SystemQUESTION:

There are no workload statistics included in the justifications with respect to the request for the Assets Management System. Please provide for the record the basis for arriving at this request.

ANSWER:

The National Asset Seizure and Forfeiture (NASAF) program is viewed as a new initiative of the Department which calls for the centralization of asset management functions previously accomplished by several Department organizations.

Workload statistics for the positions and dollars identified with the NASAF assets management system are the same as those included with the justification of the Assets Forfeiture Fund request for 1986, which follows. Little information is available due to the newness of the assets management system.

Accomplishments and Workload: The estimated workload for this program is presented in the following table:

<u>Item</u>	<u>1985</u>	<u>1986</u>
Number of seizures (administrative and judicial)..	18,618	21,751
Number of forfeitures.....	12,474	14,573
Number of forfeited properties sold.....	11,724	13,823
Number of conveyances retained for official use...	750	750
Number of conveyances equipped for official use...	375	375
Number of awards paid.....	837	975

It is noted that assets resulting from all judicial seizures and the majority of all administrative seizures initiated by Department of Justice organizations will be controlled, managed, and disposed of by the Marshals Service.

#### Mandatory Sentencing

##### QUESTION:

You are also requesting an additional 14 positions and \$312,000 for the additional workload as a result of the mandatory sentencing provisions of the Comprehensive Crime Control Act for persons convicted of bail jumping. There are no workload statistics associated with this request. Please provide for the record the basis for these numbers.

##### ANSWER:

The 14 positions requested as a result of the bail reform provisions of the Comprehensive Crime Control Act of 1984 were based on an expected increase in the time required to complete more complex cases. As stated in the request, a much greater volume of in-depth investigative information must be developed by Marshals Service inspectors to provide support to U.S. Attorneys in their mandatory prosecution efforts.

These complex cases will require an estimated additional ten hours per case for approximately 25 percent of the expected 1985 workload of 11,800 fugitive felon warrants. This translates to approximately 29,120 additional hours, or 14 additional positions and workyears needed.

#### Ability to Handle 1986 Workload

##### QUESTION:

Your 1986 budget request does not reflect any program increases. However, in your statement you refer to the rapidly growing and changing workload of the U.S. Marshals Service. Are you completely confident that you can carry out your responsibilities within this budget request?

##### ANSWER:

As mentioned in my statement, we are exploring ways to fund the child custody/visitation portion of the Comprehensive Crime Control Act of 1984. Once funding and positions are provided for these and other new responsibilities from the Bankruptcy Amendments and Federal Judgeship and the Comprehensive Crime Control Acts of 1984, the Marshals Service will have sufficient personnel to fill its most critical needs. The Service will then be in a good position for handling the projected 1986 workload.

Request to the OMBQUESTION:

What was your budget request to the Department of Justice and to OMB and in what areas were you seeking increases that are not reflected in the budget request that was submitted to the Congress?

ANSWER:

In our request to the Department of Justice, the Service requested 2,555 positions and \$151,691,000; our request to OMB asked for 2,543 positions and \$157,789,000. Immediately following is a list of program increases presented to OMB which are not reflected in the budget request to the Congress.

U.S. Marshals Service  
1986 Enhancements Requested of OMB  
(Dollars in thousands)

	<u>Positions</u>	<u>Amount</u>
Witness Security		
. OCDE	...	\$308
Fugitive Investigations & Court Orders		
. Warrants	102	3,168
. Civil Process	10	363
. Private Process	...	1,000
. Extraditions	...	275
Judicial Security		
. Court Security	62	2,194
. Personal Security	21	729
Handling of Federal Prisoners		
. Receipt & Processing	29	1,004
. Transportation & Movement	24	1,118
. National Prisoner Transportation System	...	2,600
Management and Administration		
. Administrative Services	3	117
. Accountants	12	543
. Training	5	1,087
. Holding Cells	...	1,200
. ADP	...	635
. Permanent Change of Station Moves	...	800
Total	268	17,141

Management and Administration DecreaseQUESTION:

You are also proposing a program decrease of \$1,506,000 in the management and administrative area for the U.S. Marshals Service. Your statement says that this reduction will be accomplished in administrative areas which do not have a direct impact on your operational mission. What areas will the reduction be applied to? How can you significantly increase the number of additional deputy U.S. Marshals and then reduce their management and administrative services by about 8 percent?

ANSWER:

In support of the government-wide initiative to reduce management and administration programs, the Marshals Service will attempt to accomplish the savings in the following areas: Equal Employment Opportunity Program; personnel; health and safety; systems support; and audit and compliance. These areas have been targeted because of their indirect effect on our operational mission and their relatively limited adverse impact on the hiring and administrative support of additional deputy U.S. Marshals.

Removing Detainees from Federal PrisonsQUESTION:

We understand that you have about 2,000 prisoners housed in facilities of the Federal Bureau of Prisons. Couldn't many of these prisoners be housed in state and local jail facilities if such space was available and thereby help relieve the overcrowding in the Federal prison facilities?

ANSWER:

The Service houses approximately 2,500 unsentenced prisoners a day in Bureau of Prisons (BOP) facilities (69 percent of which are in Metropolitan Correctional Centers (MCCs)). The USMS does not have to make jail day payments for prisoners housed in these facilities.

The MCCs were designed to house not only short-term sentenced but also unsentenced Marshals Service prisoners. However, due to a growth in the prisoner loads, the shortage of local jail space, and the implementation of the Comprehensive Crime Control Act of 1984, the Service has been forced to rely increasingly on BOP facilities for jail space.

In order to accommodate this increasing prisoner load, BOP has been forced to relocate many of its sentenced prisoners from such areas as Miami and Los Angeles. As of March 19, 1985, all BOP facilities were 36 percent over their rated capacity and the MCCs were 53 percent over their rated capacity. If additional state and local jail space were available in appropriate geographical areas, some of the overcrowding at BOP facilities could be alleviated.

Per Capita Cost of Housing a PrisonerQUESTION:

What is the cost per prisoner of providing housing under the CAP program and what is the per capita cost of providing housing in the Federal Prison System?

ANSWER:

The Federal Prison System's average daily per capita rate to house a prisoner was approximately \$36.30 in 1984. The average jail day rate for state and local jails used by the Service during the same time frame was \$32.57.

New Language for the Cooperative Agreement Program

QUESTION:

I notice that you are proposing some new language in connection with the CAP program. What would be the effect of this provision on the program?

ANSWER:

In order to enhance the cost effectiveness of the CAP program, the Service has requested authorization to enter into CAP projects which will expand the level of inmate services in detention facilities which do not necessarily house Federal prisoners. In return, the USMS would acquire vital guaranteed bedspace in another facility operated by the same local government.

For example, overcrowded conditions in a county jail can be resolved by the renovation/conversion of a warehouse (under a CAP project) to a minimum security work release center. The new space created by CAP funds can be occupied by minimum security county prisoners who had previously been confined in the maximum security jail. In return, guaranteed maximum security space in the county jail would be made available to USMS prisoners.

As the costs for renovation or construction of minimum security bedspace is significantly lower, the cost effectiveness of the CAP program would be greatly enhanced. In effect, CAP would assist local jails to create and use alternative housing for its prisoners who do not need to be housed in overcrowded maximum security jails.

Assets Forfeiture Fund

QUESTION:

You are proposing an appropriation of \$20 million from net proceeds for asset management expenses incurred in seizing, managing and disposing of forfeitable assets and other expenses permitted under the Comprehensive Crime Control Act of 1984. How did you arrive at this figure?

ANSWER:

Since the Assets Forfeiture Fund is new and historical data was not available, the \$20 million was an educated guess of the funds needed to support this effort. It was the intent of the Department to request an appropriation amount that was reasonable and recognized the Administration's effort to control Federal spending. However, as experience is gained in operating the Fund, and if data reveal that the appropriation requirements are understated, it may be necessary to seek an increased ceiling. The Service has been informed recently that the House Committee on the Judiciary's Subcommittee on Crime and the Office of Management and Budget have agreed on new language that would provide an indefinite appropriation without a ceiling for expenses covered by the Fund except for those expenses authorized by subsections (c)(1)(B), (c)(1)(E) and (c)(1)(F) of that section of the Comprehensive Forfeiture Act of 1984. A revised ceiling is currently being considered.

QUESTION:

Some people would argue that the Comprehensive Crime Control Act does not authorize or require a cap to be placed on the Department's expenditures from the Fund. Could you provide for the record the reasons why you are proposing such a cap.

ANSWER:

It is correct that the Comprehensive Crime Control Act of 1984 does not authorize a specific cap for the Assets Forfeiture Fund. However, it is clear that the Act intended to limit expenditures authorized by the Act through the use of the appropriation process. In reviewing the intent of the legislation, the Department and the Office of Management and Budget believe that those expenses that occur prior to the U.S. Government gaining title to the property, e.g., liens, mortgages, remission or mitigation, are non-government expenses and should be excluded from the appropriation ceiling. In addition, those non-discretionary management expenses to seize, maintain and dispose of assets for the purpose of ensuring their value and enhancing the return to the Federal Government should be excluded as well. Finally, it is believed that a ceiling is justified but only on those items that are considered discretionary, e.g., payment of awards, retrofitting of forfeited conveyances, and purchase of evidence.

QUESTION:

How will the new fund supplement existing appropriated funds being used by Justice law enforcement agencies for similar purposes? Could you provide for the record a listing of each Justice Department agency that has the authority to seize assets, the amounts available, and the positions for each agency for FY 1984, 1985 and 1986, and a statement concerning why you are not proposing offsetting reductions in the budgets of those agencies for FY 1986.

ANSWER:

To reduce organizational deficiencies caused by overlapping property management operations within the Department, a single agency, the U.S. Marshals Service (USMS), was assigned responsibility for the overall management of seized and forfeited property within the Department. The Assets Forfeiture Fund will be administered by the USMS under the auspices of the National Asset Seizure and Forfeiture (NASAF) program. The Fund will complement existing appropriated funds for seized assets management expenses to ensure that the maximum dollars possible are returned to the U.S. Treasury from the enhanced level of asset seizure/forfeiture activities in the Department that result from the implementation of forfeiture provisions of the Comprehensive Crime Control Act of 1984.

The following table lists those Department agencies with authority to seize assets, as well as the positions and amounts available between 1984 and 1986 for asset seizure management activities.

Department of Justice  
Asset Seizure Management Resources  
(Dollars in thousands)

Organization	1984 Actual		1985 Estimate*		1986 Estimate*	
	Pos.	Amount	Pos.	Amount	Pos.	Amount
U.S. Marshals Service..	45	\$6,044	177	\$8,590	177	\$10,997
Federal Bureau of Investigation.....	12	232	22	485	28	673
Drug Enforcement Administration.....	8	267	8	278	8	290
Immigration & Naturalization Service.....	32	1,252	32	653	32	653
TOTAL.....	97	7,795	239	10,006	245	12,613

\*Includes 132 positions and \$2,546,000 requested in a 1985 supplemental for the NASAF program.

There are no comparable reductions through 1986 in the budget requests for the agencies involved with asset seizures. Until the Fund becomes operational and some experience is gained, it would be premature to propose reductions in these agencies. Until the transfer of management responsibilities in administrative seizures is completed from other Department seizing organizations to the USMS, as outlined in a memorandum of understanding, there will continue to be maintenance, storage and disposal costs that remain to be absorbed by the seizing agencies. This area will be examined in detail during the 1987 budget process.

QUESTION:

In your statement you say that to the extent funding is available this Fund can be used for payment of information and awards, to equip forfeited vehicles for law enforcement use and for the purchase of evidence. How will such funding become available and will funds for such purposes be available after the other Justice agency funds are depleted?

ANSWER:

The Department has taken a cautious approach and requested a limited appropriation for the Assets Forfeiture Fund due to the uncertainty about the eventual level of its capitalization. Funding for extraordinary expenditures, i.e., payment of awards, equipping forfeited conveyances, and purchase of evidence, will be available only to the extent that monies in excess of asset management expenses are available from the proceeds of the sale of forfeited assets and from forfeited cash. As the Marshals Service gains experience in administering the Fund, better information will be available so that reasonably accurate cash flow projections and estimates of amounts available for these extraordinary expenditures can be made. The payment of awards for information or assistance that results in a successful civil or criminal forfeiture is a new authority provided by the Comprehensive Crime Control Act of 1984 for which the Department has not been funded previously. The use of the Fund up to the limited appropriation level for equipping forfeited conveyances and the purchase of

evidence in addition to payment of awards is considered a complement to the existing resources appropriated to law enforcement agencies in the Department for those two purposes and will be used simultaneously.

QUESTION:

Will these funds ultimately replace the need for appropriating purchase of evidence funds directly to the agency budgets?

ANSWER:

Due to the lack of experience as to what actual funding level the capitalization of the Assets Forfeiture Fund will support, the Department is taking a cautious approach and does not envision the Fund replacing the direct appropriation of resources for the purchase of evidence of violations related to the Controlled Substances Act or the Controlled Substances Import and Export Act at this time. Noting the limited ceiling proposed for the Fund and the fact that the purchase of evidence related to these Acts has been given the lowest priority in terms of Fund usage, the Fund should not initially be considered as a source to replace the need for directly appropriated purchase of evidence funds. After the Department has gained a few years of experience in the operation of the Fund, it may be appropriate to reconsider this issue.



QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

UNITED STATES MARSHALS SERVICE

Increased Average Jail Day Rate

QUESTION:

In 1984, the average jail day rate was \$32.40. This year, it is \$36.00. What accounts for this increase?

Does this figure reflect only inflationary increases?

ANSWER:

Jail day rates increase each year due in part to the normal inflationary factors, but also due to the fact that many local governments' detention budgets have increased. In response to court orders, prisoner litigation and state detention standards, state and local jails have renovated existing facilities or constructed (or plan to construct) new facilities.

In order for these facilities to comply with the court orders and stringent standards, they have been required to greatly expand their staff, renovate existing jail space, increase the square footage per prisoner, as well as increase significantly the level and quality of inmate services provided. When a new facility is opened, significant rate increases (often double the previous rate) are experienced due to higher utility and staffing costs. These costs, as well as the normal inflationary costs, are passed on to the Federal Government in the form of jail day rate increases.

## QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

United States Marshals ServiceQUESTION:

The Washington Post (September 20, 1984) reported that more than one fifth of the persons relocated with new identities under the Federal Witness Security Program are arrested for serious crimes within two years after they join the program, according to a GAO study. The new Crime Control Act requires the Attorney General to weigh the risk to the public against the need for the person's testimony before relocating a witness. What standard was used before this Act? Will the new standard mitigate the problem? In short, why have we been so lax about this problem in the past?

ANSWER:

A study conducted by the General Accounting Office (GAO) in 1983 and 1984 did estimate a recidivism rate among protected witnesses of approximately 21 percent. The same GAO study also cited the results of a recent U.S. Parole Commission study using similar criteria. The Parole Commission survey computed the recidivism rate among Federal parolees at 47 percent, over twice that of protected witnesses.

The standard for admission into the Witness Security program has not changed since the passage of the Comprehensive Crime Control Act of 1984. Since the inception of the program, no witness has been admitted into the program without a careful evaluation of: 1) the significance of the prosecution for which his testimony was required; 2) the danger to the witness that would result from his testimony; 3) the witness' criminal history; and 4) the risk of criminal behavior.

As a result of the Comprehensive Crime Control Act of 1984, more data is now being collected so that the process of making the determination to relocate a witness is better informed. Since October 1984, every candidate for admission to the program who is over 17 years old is evaluated by Bureau of Prisons psychologists, and the results of these tests are accorded primary importance by the Criminal Division. In addition, a written risk assessment is prepared for each candidate. Included in the assessment is a justification for the conclusion as to whether the need for the witness' testimony outweigh any risk to the community to which the witness is to be relocated. If any laxity existed in the past, it was in recording the deliberations that led to each determination rather than a failure to consider a wide range of relevant factors before authorizing a witness' admission into the program.

Sting OperationQUESTION:

I commend you on your recent "sting" operation that netted nearly 7,500 fugitives. I noted in a Washington Post article (November 21, 1984) on this operation that about half of the fugitives you apprehended were released on bail following a similar "sting" operation in California. Will the new bail provisions of the Crime Control Act prevent this occurrence? What do you recommend if this Act will not

solve this problem? It seems counterproductive to spend so much time and money to track these offenders, only to have them released on bail again. Certainly they have demonstrated that they are not good bail prospects.

ANSWER:

The new bail provisions of the Comprehensive Crime Control Act of 1984 will have little effect in preventing the release of those persons arrested during Fugitive Investigative Strike Team (FIST) operations. The majority of those arrested during FIST operations are wanted on local charges, and thus are not affected by the new Federal bail provisions. The Federal Government should make an effort to encourage state legislatures to enact similar bail reform legislation on the state level. However, it should be recognized that the current problem with overcrowding in state and local jail facilities is a major factor in release decisions. Consequently, progress in bail reform at the state level is likely to be slow until these facilities can accommodate the increased prisoner population. States should also be encouraged to provide their own law enforcement with adequate funding for performing investigations in order to locate state and local fugitive felons.

The Marshals Service takes the position that FIST operations are very productive. Although half of the fugitives arrested by FIST teams are released subsequently on bail, the other half remain incarcerated at the discretion of the court of jurisdiction. It is important to note that, although released subsequently, these fugitives are being arrested and brought before the judiciary to face the appropriate charges rather than being ignored. Conversely, ignoring them would make a travesty of our system of justice. Furthermore, FIST operations are relatively inexpensive. After seven operations, the average cost per arrest is under \$800.



MONDAY, APRIL 1, 1985.

**FEES AND EXPENSES OF WITNESSES**

**WITNESSES**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR  
ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

**STANLEY E. MORRIS, DIRECTOR, U.S. MARSHALS SERVICE**

Mr. DWYER. We shall next consider the fiscal year 1986 budget request for the appropriation Fees and Expenses of Witnesses. The fiscal year 1986 budget request is for \$47,900,000. This amount represents an increase of \$7,300,000 above the appropriation enacted to date for fiscal year 1985. We shall insert the justifications into the record.

We will also consider a \$2.8 million supplemental.

[The justifications follow:]

(757)

Department of Justice  
Fees and Expenses of Witnesses  
Estimates for Fiscal Year 1985  
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Legal Activities  
Fees and Expenses of Witnesses  
Summary Statement  
Fiscal Year 1986

The Fees and Expenses of Witnesses appropriation is requesting, for 1986, a total of \$47,900,000. This request represents an increase of \$4,809,000 over the 1985 appropriation anticipated of \$43,091,000.

The purpose of the Fees and Expenses of Witnesses appropriation is to pay the fees and expenses of witnesses: (1) who appear on behalf of the government in all cases in which the United States is a party; (2) who are appointed by the Court under Rule 706 of the Federal Rules of Evidence, or; (3) who are fact witnesses called to present testimony on behalf of Court-designated indigent criminal defendants. In addition, this appropriation funds the expenses of protected witnesses and their dependents pursuant to statute and Department policy.

The Fees and Expenses of Witnesses appropriation contains four budget activities: Fact Witnesses, Protection of Witnesses, Expert Witnesses, and Mental Competency Examinations.

1. Fact Witnesses: Fact witnesses testify as to events or facts about which they have personal knowledge. These witnesses are paid a statutory \$30 per day attendance fee as well as certain other costs associated with their appearance.
2. Protection of Witnesses: P.L. 98-473 (Comprehensive Crime Control Act of 1984) authorizes the Attorney General to provide for the security of government witnesses or potential government witnesses and their families when their testimony concerning organized criminal activity and other criminal matters may jeopardize their personal safety. This Act repealed Title V of the Organized Crime Control Act of 1970 (84 Stat 933) which provided the initial authorization for this program. It also authorizes the establishment of a Victims Compensation Fund which provides restitution to individuals who are victimized by a protected witness.
3. Expert Witnesses: The testimony of expert witnesses is used in trials where technical or scientific expertise is required in the defense or prosecution of a case. An increase of \$1,800,000 is requested for this activity. The legal divisions and the U.S. Attorneys are requiring a greater number of highly specialized and, therefore, more costly expert witnesses to provide critical courtroom testimony for the government.
4. Mental Competency Examinations: This activity pays the fees of physicians and psychiatrists who examine accused persons upon order of the court to determine their mental competency to stand trial.

Legal Activities

Salaries and expenses, Fees and Expenses of Witnesses

Proposed Authorization Language

The following authorization language is requested for Fees and Expenses of Witnesses:

Annual Authorization Proposal

For Fees and Expenses of Witnesses: \$47,900,000, of which not to exceed \$550,000 may be available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

Permanent Authorization Proposal

The Department of Justice is authorized to make payments from the Fees and Expenses of Witnesses appropriation for:

- (1) expenses, mileage, compensation, and per diem of witnesses in lieu of subsistence, as authorized by law;
- (2) contracting for expert witnesses according to the procedure similar to that authorized by Section 904 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 514);
- (3) advances of public moneys under 31 U.S.C. 3324;
- (4) expenses incurred for use of facilities required as command posts in the protection of witnesses, including official phone calls made from command posts; and
- (5) planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.
- (6) No sum authorized to be appropriated shall be used to pay any witness more than one attendance fee for any one calendar day.



Legal Activities

Fees and Expenses of Witnesses

Justification of Proposed Changes in Authorization Language

The Fees and Expenses of Witnesses Appropriation is requesting the following new language to be added to its authorization in 1986.

Annual Authorization Proposal

not to exceed \$550,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

This proposed language change would clarify the Department's authority to use this appropriation to fund specific expenses incident to the operation of the Witness Security Program. Specifically, this change pertains to the renovation and construction expenses associated with the establishment of "safesite" facilities for the protection of individuals admitted to the Witness Security Program and the processing and protection of individuals considered to be protected entrants into the Witness Security Program. The language change clarifies (1) the extent of the authority given to the Attorney General by P.L. 98-473 Chap. 244 98 Stat 2153-2163 (approved October 12, 1984), as it related to "renovation" and "construction" in light of 41 U.S.C. 12 and 31 U.S.C. 1301, 1307 and (2) the source of funding to exercise the authority contained in Section 502.

Legal ActivitiesFees and Expenses of WitnessesJustification of Proposed Changes in Appropriation Language

The 1986 budget estimates include proposed changes in appropriation language listed and explained below. New language is underscored and deleted matter is enclosed in brackets.

Fees and Expenses of Witnesses

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; [for use of facilities required as command posts in the protection of witnesses, and for official phone calls made from command posts; \$40,600,000], of which not to exceed (\$500,000) may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safehouses.

\$47,900,000  
\$550,000

(18 U.S.C. Pres. 3481 Note, 3495-96, 4203, 4226-28;  
28 U.S.C. 524, 1783, 1821, 1825, 1915, 1922; 31 U.S.C. 3324;  
40 U.S.C. 541; P.L. 98-411; Department of Justice and Related  
Agencies Appropriation Act, 1985; additional authorizing  
legislation to be proposed.)

Explanation of changes:

1. Language was requested to permit payment from this appropriation of all costs for command posts and for official phone calls made from command posts. The Department had previously elected to split such expenses between this appropriation and the appropriation "Salaries and expenses, U.S. Attorneys and Marshals." Once such an election has been made, Congressional action is necessary to change the manner in which appropriations are charged. Now that Congress has approved this change through passage of the 1984 program supplemental request, it is no longer necessary to include the language in subsequent appropriation requests.

Legal ActivitiesFees and Expenses of Witnesses

Grosswalk of 1985 Changes  
(Dollars in thousands)

Budget Activity	1985 President's Budget Request	Congressional Appropriation Actions on 1985 Request	Reprogrammings	1985 Program Supplemental Requested	1985 Proposed Resolutions	1985 Appropriation Anticipated
1. Fact witnesses.....	\$16,659	-\$193	+\$15	...	-309	\$16,172
2. Protection of witnesses: General Expenses.....	12,346	-187	+70	\$775	...	13,004
Victim Compensation Fund.....	...	...	...	525	...	525
3. Expert witnesses.....	11,615	...	...	1,500	...	13,115
4. Mental competency exams..	368	-8	-85	...	...	275
Total.....	40,988	-388	...	2,800	-309	43,091

Explanation of Analysis of Changes from 1985 Appropriation RequestCongressional Appropriation Action

The Congress reduced the President's request by \$388,000. Essentially, this deleted the restoration of the one percent reduction applied to the 1984 appropriation request.

Supplemental Requested

Supplemental funds are requested to cover costs associated with the increased use of highly specialized and, therefore, more costly, expert witnesses to provide critical courtroom testimony for the government. Of this amount, \$1,500,000 is requested to be funded by a transfer from the Support of U.S. Prisoners appropriation.

Proposed Rescission

In accordance with Section 2901 of the Deficit Reduction Act, \$309,000 is proposed for rescission in the travel and transportation area.

Legal Activities

Salaries and expenses, Fees and Expenses of Witnesses

Summary of Requirements  
(Dollars in thousands)

<u>Adjustment to base:</u>	<u>Amount</u>
1985 enacted.....	\$40,600
1985 Program supplemental.....	2,800
Proposed Resolution.....	-309
1985 appropriation anticipated.....	43,091
Uncontrollable increases:	
General pricing level adjustment.....	2,309
Annualization of Comprehensive Crime Control Act supplemental.....	700
1986 base.....	<u>46,100</u>

764

	1984	1984	1985	1986	1986	Increase/ Decrease
<u>Estimates by</u>	<u>Enacted</u>	<u>Actual</u>	<u>Appropriation</u>	<u>Base</u>	<u>Estimate</u>	
<u>budget activity</u>			<u>Anticipated</u>			
1. Fact Witnesses.....	\$14,682	\$14,464	\$16,172	\$17,264	\$17,264	...
2. Protection of Witnesses:						
General Expenses.....	10,789	10,785	13,004	14,235	14,235	...
Victim Compensation Fund.....	...	...	525	575	575	...
3. Expert Witnesses.....	12,062	10,451	13,115	13,738	15,538	\$1,800
4. Mental Competency Examinations.....	350	219	275	288	288	...
Total.....	37,883	35,919	43,091	46,100	47,900	-1,800

Legal Activities

Fees and Expenses of Witnesses

Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

	<u>1985 Appropriation</u>	<u>1986 Base</u>	<u>1986 Estimate</u>	<u>Increase/Decrease</u>
	<u>Anticipated</u>			
Activity: Fact Witnesses.....	\$16,172	\$17,264	\$17,264	...

Long-Range Goal: To maximize the effectiveness of the Department's litigative program by providing fact witnesses for criminal and civil trials.

Major objectives:

To provide adequate resources to compensate fact witnesses who testify on behalf of the Government for the expenses associated with attendance at legal proceedings. The court-attendance fee paid to fact witnesses is set by law (28 U.S.C. 1821). As a result of Public Law 96-346 (September 10, 1980), the amounts authorized for travel, per diem and mileage are set by regulations governing official travel by federal employees and promulgated by the Administrator of the General Services Administration.

To provide resources to compensate a sufficient number of fact witnesses for the Government to be best represented in legal proceedings to which it is a party.

To provide resources to compensate fact witnesses utilized by those defendants designated as indigent by the courts. Expenses are paid to those witnesses who appear in criminal proceedings in federal court for the indigent defendants.

Base program description: To provide corroborating testimony to support and refute evidence on testimony presented in litigation in order to permit the Government to litigate its cases more effectively. The testimony of fact witnesses is used in court proceedings by the Department's legal divisions and district offices of the U.S. Attorneys. Fact witnesses are used primarily in criminal proceedings where the defendant is accused of violating Federal law. Payments to witnesses are intended to defray the costs of appearing to testify on behalf of the Government. Attendance fees are \$30 per court day; amounts authorized for per diem and mileage are set by the regulations governing official travel by Federal employees.

Accomplishments: This activity has provided the funding necessary to ensure payment to a sufficient number of fact witnesses to enable the United States to be well represented in its legal proceedings.

Activity: Protection of Witnesses	1985 Appropriation Anticipated	1986 Base	1986 Estimate	Increase/Decrease
General Expenses.....	\$13,004	\$14,235	\$14,235	...
Victim Compensation Fund.....	525	572	572	...
Total.....	13,529	14,810	14,810	...

This budget activity includes resources for the general expenses (housing, food, relocation and incidentals) of protected witnesses and to compensate those individuals who are victimized by a protected witness.

	1985 Appropriation Anticipated	1986 Base	1986 Estimate	Increase/Decrease
General Expenses.....	\$13,004	\$14,235	\$14,235	...

Long-Range Goal: To increase the effectiveness of the Department's efforts to combat criminal activity in such areas as organized crime, drugs or narcotics, and murder or conspiracy to commit murder, by obtaining testimony from potentially endangered or threatened witnesses.

#### Major Objectives:

To obtain testimony which can be used to prosecute persons accused of organized crime or other serious criminal activity.

To protect witnesses and their families when the testimony of the witnesses may jeopardize their personal security.

To compensate witnesses for subsistence costs such as housing, food, relocation, and incidental expenses as provided by Public Law 98-473.

To provide orientation, documentation and family-oriented services, etc. to new entrants into the Witness Security Program.

Rease Program Description: The procedure for designating a person as a protected witness is set forth in Department of Justice OGD Order 2110.2 "Witness Protection and Maintenance Policy and Procedures." This order places within the U.S. Marshals Service the responsibility for the security of these witnesses and their families. This program provides for their financial maintenance including: subsistence expenses; housing; medical and dental expenses; travel; documentation expenses for identity changes; one-time relocation; costs for obtaining employment; and other miscellaneous expenses. Rates are authorized by the Assistant Attorney General for Administration. The U.S. Marshals Service will continue its development of strategically located safe-site facilities to house protected witnesses before and during trials, and the operation of the Assessment Center Safe-site.

Accomplishments: A recent General Accounting Office report entitled "Witness Security Program: Prosecutive Results and Participant Arrest Data" (GAO/80D-84-87) found that upon reviewing 220 case summaries involving the testimony of protected witnesses, 75 percent of the defendants in these cases were found guilty. Eighty-four percent of those found guilty were sent to prison for a median sentence of 4.4 years. These prosecutions resulted in significantly more severe sentences

than those received for federal felony prosecutions in general. For FY 1983, federal felony sentencing outcomes show that only 36 percent of those defendants received sentences of 2 years or greater, while 70 percent of the defendants prosecuted with the testimony of protected witnesses received 2 or more years. The testimony of protected witnesses was also very instrumental in obtaining guilty verdicts and more severe sentences for "prime target" or "ringleader" defendants. In summary, the report found that very few cases utilizing the testimony of protected witnesses were completely unsuccessful. This activity has also provided sufficient funding to ensure the protection of witnesses willing to testify for the government in all organized crime cases requiring such testimony.

	1985 Appropriation Anticipated	1986 Base	1986 Estimate	Increase/Decrease
Victim Compensation Fund.....	\$525	\$575	\$575	...

Long-Range Goal: To pay restitution, or in the case of death, compensation for the death to any victim of a crime that causes or threatens death or serious bodily injury and that is committed by a protected witness.

#### Major Objectives:

To provide compensation to those individuals, or in the case of death to the individual's estate, who are victimized by a protected witness, as mandated by Chapter 224, Section 3525 of the Comprehensive Crime Control Act of 1984 (P.L. 98-473) enacted October 12, 1984.

Base Program Description: This program provides resources to compensate individuals who are victimized by a protected witness. The fund was established in 1985 and is authorized to be appropriated \$1,000,000 annually to make payments to victims of crimes committed by a protected witness. The Marshals Service currently estimates anticipated expenses to fall short of the \$1,000,000 authorized. Data on this fund will be collected and reported to the Congress by the Attorney General not later than four months after the end of each fiscal year.

	1985 Appropriation Anticipated	1986 Base	1986 Estimate	Increase/Decrease
Activity: Expert Witnesses.....	\$13,115	\$13,738	\$15,538	\$1,800

Long-Range Goal: To improve the ability of litigating units in the Department of Justice to adequately represent the United States' interests in courts of law in cases involving complex scientific or technical issues by providing sufficient funding to employ an adequate number of expert witnesses.

#### Major Objectives:

To provide an adequate number of expert witnesses to testify on behalf of the United States when legal proceedings require testimony of a scientific or technical nature.

To provide reasonable compensation for expert witnesses at rates established by the Attorney General or the Assistant Attorney General for Administration, pursuant to 28 U.S.C. 524.

**Base Program Description:** This program provides for the fees and expenses of expert witnesses who appear on behalf of the Government when scientific or technical expertise is required in the prosecution or defense of a case. The purpose of complex litigation by the Department would not be possible without qualified experts both to testify and to refute the non-legal particulars of individual cases. The testimony of expert witnesses is essential to the successful outcome of such litigation.

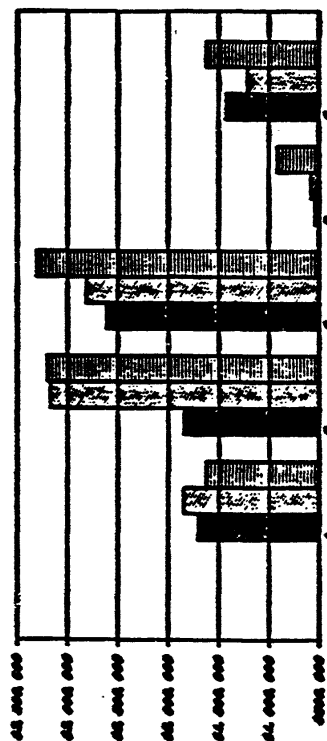
**Program Changes:** For 1986, an increase in budget authority of \$1,800,000 is requested to cover increased costs associated with the greater use of more highly specialized and, therefore, more costly, expert witnesses to testify on behalf of the Government. The entire amount of the increase will appear in object class 11.8, Special Personnel Services Payments.

A major reason for the projected increase in the use of expert witnesses is the increasing number of cases involving complex and technical issues. Opposing parties continue to employ experts having access to highly sophisticated techniques of data collection and analysis. To effectively counter the testimony of these individuals, government attorneys must have the ability to hire competent experts to provide opposing testimony. The costs of collecting the information used as testimony are accelerating rapidly. These increased costs have led to a steady increase in the fees charged by such experts in recent years, as shown in the chart below.

#### EXPERT WITNESS OBLIGATIONS BY FEE CATEGORY

U.S. DEPARTMENT OF JUSTICE

21 133 333 133 133



PER CATEGORY

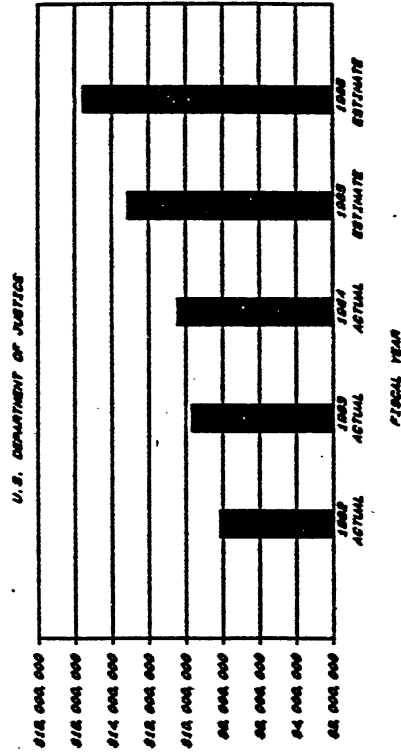
PER CATEGORY \$ 1.5 251 = 1.5 251 \$ 1.5 251 = 1.5 251



This graph demonstrates clearly that total obligations for relatively inexpensive witnesses (Fee Category A) have declined from 1983 to 1984. Conversely, obligations for the more expensive experts (Fee Categories C, D, and E) have risen sharply between 1982 and 1984. The movement toward more expensive witnesses is in direct correlation to the increased complexity of the Department's litigative caseload.

When all the fee categories are combined, a clear and undeniable trend of steadily increasing costs is evident. This trend is depicted in the following chart. This steady increase in costs is expected to continue in 1985 and 1986.

### TOTAL EXPERT WITNESS OBLIGATIONS



	<u>1985 Appropriation</u>	<u>1986 Base</u>	<u>1986 Estimate</u>	<u>Increase/Decrease</u>
	<u>Anticipated</u>			
Activity: Mental Competency Examinations.....	\$275	\$288	\$288	...
Long-Range Goal: To guarantee the right of accused persons to a fair and impartial trial in a court of law by ensuring that the accused individual is mentally competent to stand trial.				

Major Objectives:

To provide for the fees and expenses of physicians or psychiatrists who perform court-ordered examinations to determine the mental competency of an accused person, pursuant to 18 U.S.C. 4241.

Base Program Description: This program is important since the rights of accused persons must be protected. Courts often order the government to pay the costs associated with mental competency examinations provided by physicians or psychiatrists. These exams attempt to determine whether the accused person is mentally competent to stand trial.

Accomplishments: This activity provided sufficient funds to ensure that, in all cases in which the courts ordered mental competency examinations, the right of accused persons to a fair and impartial trial was protected.

Legal Activities  
Fees and Expenses of Witnesses  
Priority Rankings

<u>Base Program</u>		<u>Program Increases</u>	
<u>Program</u>	<u>Ranking</u>	<u>Program</u>	<u>Ranking</u>
Protection of Witnesses	1	Expert Witnesses	1
Fact Witnesses	2		
Expert Witnesses	3		
Mental Competency Examinations	4		

Legal Activities  
Fees and Expenses of Witnesses  
Justification of Adjustments to Base  
(Dollars in thousands)

	Amount
<u>Uncontrollable Increases:</u>	
1. General pricing level adjustment.....	\$2,309
This request applies OMB pricing guidance as of January 1985 to selected expense categories. The increased costs identified result from applying a factor of 4.8 percent against these subject classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expenses where inflation has already been built into the 1986 estimates.	
2. Annualization of Crime Control Act Supplemental.....	700
Chapter 224 of the Comprehensive Control Act of 1984 (P.L. 98-473) enacted October 12, 1984, instituted significant new requirements on the Protection of Witnesses activity in the areas of child custody support and litigation and by the establishment of the Victims Compensation Fund. OMB approved a \$1,300,000 supplemental for the costs associated with the requirements of the act and an annualized 1986 amount of \$2,000,000.	
Total, adjustments to base.....	<u>3,009</u>

Legal Activities  
Salaries and expenses, fees and expenses of witnesses  
Summary of Requirements by Object Class  
(Dollars in thousands)

<u>Object Class</u>	<u>1985 Estimate</u> <u>Amount</u>	<u>1986 Estimate</u> <u>Amount</u>	<u>Increase/Decrease</u> <u>Amount</u>
11.8 Special personnel services payments...	\$32,116 1/2	\$36,003	\$3,887
21.0 Travel and transportation of persons..	10,450	11,322	872
42.0 Insurance claims and indemnities.....	525	575	50
Total.....	43,091	47,900	4,809
Relation of obligations to outlays:			
Obligated balance, start-of-year.....	9,820	10,688	
Obligated balance, end-of-year.....	-10,688	-11,620	
Outlays.....	42,223	46,968	

1/This amount is different from the amount shown in the President's budget due to a late, minor adjustment involving the 1985 program supplemental.

## 1985 SUPPLEMENTAL AND 1986 REQUEST

Mr. Wallace, you have a statement in support of the request. Please proceed in your own way.

## GENERAL STATEMENT

Mr. WALLACE. Mr. Chairman and Members of the Subcommittee, I am pleased to have the opportunity to appear before you supporting the 1985 supplemental budget request for the Fees and Expenses of Witnesses appropriation. If the Committee approves, I would like to submit both prepared written statements for the record and make brief summaries.

Mr. DWYER. By all means.

Mr. WALLACE. First, with regard to the 1985 supplemental we are requesting \$2.8 million. \$1.5 is to give us the capability to pay for costly expert witnesses. The other \$1.3 million of the request would allow us to implement new provisions of the Comprehensive Crime Control Act, which requires that we make certain payments with regard to child custody, child support payments, psychological examinations of protected witnesses, and restitution to individuals victimized by protected witnesses.

In moving to the 1986 budget request, we are asking for a program increase again for expert witnesses of \$1.8 million and for \$700,000 to annualize the amount in the 1985 supplemental associated with protected witnesses. Finally, \$2,809,000 is requested to take care of certain uncontrollable increases above and beyond the fiscal year 1985 anticipated appropriation, including the supplemental.

That ends my prepared summary.

[The prepared statement of Mr. Wallace follows:]

## DEPARTMENT OF JUSTICE

## FEES AND EXPENSES OF WITNESSES

STATEMENT OF THE ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION  
W. LAWRENCE WALLACE  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON THE  
DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE,  
THE JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before you supporting the 1986 budget request for the Fees and Expenses of Witnesses appropriation. This appropriation is used by all of the Department's litigating organizations for the payment of fees and expenses of fact and expert witnesses, for the expenses of individuals in the Witness Security Program, and for the expenses of examinations conducted to determine the mental competency of criminal defendants. The 1986 request for the appropriation is \$47,900,000, an increase of \$4,809,000 over the 1985 appropriation anticipated of \$43,091,000. The 1986 request consists of a program increase of \$1,800,000 for the expert witness activity, \$700,000 for the annualization of the Comprehensive Crime Control Act supplemental for Protection of Witnesses, and an uncontrollable increase for the general pricing level index of \$2,309,000.

The program increase of \$1,800,000 for the expert witness activity will provide sufficient resources to enable the U.S. Attorneys and the litigating divisions of the Department to employ expert witnesses who prepare and present critical courtroom testimony on complex and technical matters. As the Department's caseload continues to increase in complexity, more highly specialized and, therefore, more costly expert witnesses are required. Also, opposing parties continue to employ expert witnesses having access to highly sophisticated techniques of data collection and analysis. Government attorneys must have the ability to hire an adequate number of expert witnesses to provide opposing testimony and to counter the claims of the opposition's expert witnesses. A 1985 supplemental request of \$1,500,000 for this activity is pending at this time.

Additionally, \$700,000 is requested for the annualization of the Comprehensive Crime Control Act supplemental. This Act, P.L. 98-473, imposed several new requirements on the Protection of Witnesses program, including child custody and support payments, which will add to the cost of maintaining protected witnesses. The Act also established a Victims Compensation Fund which is designed to provide restitution to individuals victimized by protected witnesses.



Costs for payments from this fund are expected to rise as victims become aware that such compensation is available. An additional \$1,300,000 is requested in the 1985 supplemental for the same purposes.

In the past year, the Department has taken steps to improve coordination between the organizations obligating funds from this appropriation and headquarters staff. Such coordination has been instrumental in strengthening financial management practices in the appropriation. Also, the management information system providing data on witness expenses has been expanded and improved to produce more accurate and timely information.

This concludes my statement, Mr. Chairman. I will be pleased to answer any questions that you and subcommittee members may have.

## DEPARTMENT OF JUSTICE

## FEES AND EXPENSES OF WITNESSES

STATEMENT OF THE ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION  
W. LAWRENCE WALLACE  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON THE  
DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE,  
THE JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before you supporting the 1985 supplemental budget request for the Fees and Expenses of Witnesses appropriation. <sup>1 end</sup>  
Supplemental funding of \$2,800,000 is requested for two purposes. First, \$1,500,000 is needed to cover the higher costs associated with the increased use of highly specialized and, therefore, costly expert witnesses. These witnesses provide testimony on complex and technical matters in support of litigation in which the government is a party. Second, \$1,300,000 is requested to implement relevant provisions of the Comprehensive Crime Control Act of 1984 in the Protection of Witnesses activity. This act imposed new requirements in the area of child custody, child support payments, and psychological examinations of potential protected witnesses. A total of \$775,000 is requested for these purposes. It also established the Victims Compensation Fund, designed to provide restitution to individuals victimized by protected witnesses. The request includes \$525,000 to fund these payments.

This concludes my statement, Mr. Chairman. I will be pleased to answer any questions that you and subcommittee members may have.

## COMPREHENSIVE CRIME CONTROL ACT

Mr. DWYER. Thank you, Mr. Wallace. The 1985 supplemental, you are requesting \$775,000 to fund new provisions of the Comprehensive Crime Control Act of 1984 relating to child custody, child support payments and psychological examinations of potential protected witnesses.

Would you provide the Committee with some specific information about these provisions and how you determined this was the amount necessary to carry them out in fiscal year 1985?

Mr. WALLACE. I have with me Mr. Morris from the Marshals Service.

Mr. DWYER. Mr. Morris.

Mr. MORRIS. Certainly. The child custody requirements under the Comprehensive Crime Control Act basically makes it a legal right for any witness to have a monthly visit with his or her children. This increase would help pay for the travel and the fees and expenses part of these visits.

In addition, the legislation establishes a number of requirements for entry into the program, including psychological testing and the like, some of which we have adopted on our own. This would support those additional requirements in terms of entry into the program.

Mr. DWYER. You are also requesting \$525,000 to establish the victims compensation fund designed to provide restitution to individual victimized by protected witnesses. How many claims are pending under this program, and how did you determine this is the amount needed for 1985?

Mr. WALLACE. We will have to supply for the record the number of claims pending, Mr. Chairman. The basic amount was arrived at through an educated guess or estimate of what might be required. We have been in the position, in the past, before Congress passed this new legislation, where we didn't have a victim's compensation fund at all. With the new law, as discussed in other hearings, there is now a victim's compensation fund for individuals who are harmed by a criminal. It appeared that this provision was necessary for those who were harmed by people who were in our witness protection program. In fact, a number of states and localities where we have placed people under the program have criticized the program for not having this kind of compensation available.

[Additional information was subsequently submitted as follows:]

## VICTIM COMPENSATION FUND CLAIMS

The Criminal Division (Office of Enforcement Operations) is presently preparing the guidelines and procedures for the administration of the Victims Compensation Fund (18 U.S.C. 3525).

From the date of the enactment of this statute, one (1) request for compensation under the Fund has been received by the Criminal Division.

This request has been made by the mother of a victim who was killed prior to the enactment of the statute. The claimant has been advised that no evaluation of the claim can be made until the guidelines and procedures have been finalized.

## INCREASE FOR EXPERT WITNESSES

Mr. DWYER. In regards to your 1986 request you are requesting a program increase of \$1,800,000 for expert witnesses for fiscal year

1986. What is the basis for this request? And based upon your experience of 1985, do you feel this increase will be sufficient for the coming year?

Mr. WALLACE. We are hopeful that this request will be sufficient. We utilized the fiscal years 1982 through 1984 to derive our estimate. We looked at three factors that took place in the expert witness category. First of all, over that period the number of expert witnesses increased by 3.9 percent secondly, the payments to expert witnesses in that same two-year period increased 29 percent and the average payment, which has been the major factor, in my opinion, increased 33 percent over that same period. This is brought about by the types of witnesses that are now required in the more technical areas and the rarity of those experts. Because of just basic supply and demand, we have had to pay more for the witnesses we use in those technical areas.

#### GUIDELINES FOR PAYMENT OF EXPERT WITNESSES

Mr. DWYER. You refer to improved coordination between the organization obligating funds from this appropriation and headquarters staff. What controls has the department established to insure costs incurred under the program are not excessive?

Mr. WALLACE. The Justice Management Division has established a set of guidelines for use by the U.S. Attorneys and the various litigating divisions in hiring expert witnesses. We monitor the expenditures under those guidelines on a monthly basis. Where procurements are utilized to secure the services, we also have additional procurement guidelines. We do some sampling on an audit basis to make sure that we are getting what we are paying for.

Mr. DWYER. Will you provide those guidelines for the record in each case?

Mr. WALLACE. Yes, sir.

[The information follows:]

EXPERT WITNESS GUIDELINES

Department of Justice Order 2110.13A is enclosed. This order is presently being revised to update the rate schedule. Organizations employing expert witnesses have complained that the present rate schedule is unrealistically low.

**DEPARTMENT  
OF JUSTICE**

**Order**

[ OBD 2110.13A ]

Oct. 26, 1982

**Subject: APPROVAL OF, AND RATES FOR, EXPERT WITNESS EXPENSES**

1. **PURPOSE.** This order establishes a new schedule of rates to be used as a basis for negotiating compensation payable to expert witnesses. Also, this order serves to reemphasize the need to have prior approval before incurring expenses for expert witnesses.
2. **SCOPE.** This order is applicable to all U.S. Attorneys' Offices and the legal divisions.
3. **CANCELLATION.** Order OBD 2110.13, dated September 28, 1978, is cancelled.
4. **PRIOR APPROVAL.** The Assistant Attorney General for Administration (AAG/Administration) is responsible for the control of Appropriation 15\_0311, Fees and Expenses of Witnesses.
  - a. In order for the control to be maintained, all expert witness expenses must have the PRIOR approval of the AAG/Administration, the Deputy AAG/Administration, or one of the following officials to whom authority is hereby delegated:
    - (1) Authority to approve or disapprove requests within or exceeding the established rates, or not covered by the rate schedule, is delegated to the Deputy Assistant Attorney General, Office of Personnel and Administration (OPA), Justice Management Division (JMD); the Director, Procurement and Contracts Staff (PCS), OPA; and the Assistant Director, Contract Administration Service, PCS.
    - (2) Authority to approve or disapprove requests within the established rates is delegated to the Senior Special Authorizations Technician, Contract Administration Service.

**Distribution:** OBD/H-1 (less JMD)  
OBD/JMD/H-2  
OBD/H-5  
OBD/F-2  
OBD/F-5

**Initiated By:** Justice Management Division  
Finance Staff

08D 2110.13A  
Oct. 26, 1982

- b. All requests must be submitted to the:

Department of Justice  
JMD/OPA/PCS/CAS  
ATTN: Special Authorizations  
Washington, D.C. 20530

The teletype routing indicator for Special Authorizations on the Departmental teletype network (JUST SYSTEM) is JACCT. Procedures covering the preparation of the request forms are contained in the JUST System directive.

5. SCHEDULE OF RATES.

- a. The rates listed below are the rates normally paid to expert witnesses for services most commonly required. The higher rates are applicable to those metropolitan areas having generally higher costs. Attorneys shall negotiate with EACH expert witness to insure that his services are obtained at the lowest possible rate.
- b. A daily rate should be negotiated when the witness will be performing a full day's service or, if less than a full day's service, when an hourly rate would exceed the maximum daily rate.
- c. For experts in categories other than those listed, attorneys should use prevailing rates in their local area as guidelines for negotiations. When local prevailing rates are used as a guideline instead of those listed in the Department's rate schedule, a copy of the source for these rates shall be submitted with the request to support the rates. Rates for these experts should not exceed \$400 per day.
- d. In addition to the fees listed below, REASONABLE travel and other miscellaneous expenses necessary to the case may be allowed. Travel expenses should be limited to the same expenses allowed for government employee travel. Travel expenses requested in excess of the applicable Standard Government Travel Regulations shall be supported by a complete justification. Other miscellaneous expenses will be limited to actual costs.

NOTE: The expert fee will not be paid for travel time.

An estimate of these expenses should be submitted with the request for authorization of fees.


OBD 2110.13A  
Oct. 26, 1982

<u>TYPE OF EXPERT</u>	<u>HOURLY RATE</u> (3 HOURS MAXIMUM)	<u>DAILY RATE</u>
<u>Accountants and Auditors</u>		
Preparation	\$25 to \$ 75	\$ 75 to \$300
Testimony	\$25 to \$100	\$100 to \$350
<u>Appraisers (Real Estate)</u>		
Preparation	\$50 to \$100	\$100 to \$300
Testimony	\$50 to \$100	\$100 to \$400
<u>Appraisers (Stock, jewelry, coins, etc.)</u>		
Preparation	\$25 to \$ 60	\$100 to \$200
Testimony	\$25 to \$ 75	\$100 to \$400
<u>Chemists</u>		
Analysis	\$25 to \$ 50	\$ 50 to \$200
Testimony	\$25 to \$ 75	\$ 75 to \$250
<u>Economists</u>		
Preparation	\$35 to \$ 90	\$150 to \$350
Testimony	\$40 to \$100	\$150 to \$400
<u>Engineers</u>		
Preparation	\$25 to \$ 90	\$100 to \$300
Testimony	\$25 to \$100	\$100 to \$350
<u>Engineers (Petroleum)</u>		
Preparation	\$50 to \$125	\$100 to \$400
Testimony	\$50 to \$125	\$100 to \$400
<u>Geologists and Mining Experts</u>		
Preparation	\$25 to \$ 75	\$100 to \$400
Testimony	\$25 to \$100	\$100 to \$400



OBD 2110.13A  
Oct. 26, 1982

<u>TYPE OF EXPERT</u>	<u>HOURLY RATE</u> (3 HOURS MAXIMUM)	<u>DAILY RATE</u>
<u>Handwriting Experts (Voice print, polygraph, etc.)</u>		
Examinations	\$25 to \$ 50	\$ 50 to \$200
Testimony	\$35 to \$ 75	\$ 50 to \$250
<u>Obscenity Experts</u>		
Preparation	\$35 to \$ 50	\$ 75 to \$175
Testimony	\$35 to \$ 50	\$ 75 to \$200
<u>Physicians (Nonspecialists)</u>		
Examinations	\$40 to \$ 75	\$ 75 to \$300
Testimony	\$45 to \$125	\$100 to \$500
<u>Physicians (Specialists other than psychiatrists)</u>		
Examinations	\$75 to \$200	\$250 to \$500
Testimony	\$75 to \$200	\$250 to \$750
<u>Pilot Expert</u>		
Preparation	\$25 to \$ 80	\$100 to \$300
Testimony	\$25 to \$ 90	\$100 to \$400
<u>Psychiatrists</u>		
Examinations	\$40 to \$100	\$ 75 to \$300
Testimony	\$45 to \$100	\$100 to \$350
<u>Psychologists</u>		
Examinations	\$25 to \$ 50	\$ 50 to \$200
Testimony	\$25 to \$ 50	\$ 75 to \$300

  
KEVIN D. ROONEY  
Assistant Attorney General  
for Administration

# RATIONALE FOR EXPERT WITNESS INCREASE

Mr. DWYER. Thank you. Mr. Early?

Mr. EARLY. Thank you, Mr. Chairman. Mr. Wallace, you requested a \$1.8 million in 1986, a 1985 supplemental for one and a half million, and in 1984, I believe you reprogrammed a million dollars for expert witnesses? Do you anticipate needing an additional supplement in 1986?

Mr. WALLACE. At the present time, we don't predict one. But it is the government's obligation to have its case ready to present to the courts. In terms of the particular line item related to expert witnesses, we found that costs have just been increasing rapidly and we require more substantial amounts of money than we are paying for witnesses at controversy in the cases.

It would appear in the government's interest to go ahead and pay the money for the witnesses to protect the governments ultimate interest.

Mr. EARLY. Are we getting more expert witnesses with our additional dollars, or are these cost increases due primarily to the increased costs of employing each expert witness?

Mr. WALLACE. There is an increase in both areas. If you look at the particular six litigating divisions that utilize these funds, the largest increase has occurred in expert witness payments in the Land and Natural Resources Division. That was a 170 percent increase from 1982 through 1984. If you look at the type of work performed by that division, it is primarily the toxic waste, environmental, and chemical waste type of activity they are litigating, and it requires higher priced experts to do that type of work than some of the other more traditional types of work the Department has done.

The other two areas that have experienced substantial increases are the Civil Rights Division, in which one of the major areas involved was the redistricting, effort in 1984 and all of the court battles associated with it. And in the Civil Division we had about a 45 percent increase. Both the Criminal Division and the Antitrust Division expenses went down slightly.

## UNCONTROLLABLE INCREASES

Mr. EARLY. For the record, would you provide a breakdown of the \$2,309,000 in uncontrollable increases for the general pricing level index?

Mr. WALLACE. Yes.

[The information follows:]

## UNCONTROLLABLE INCREASE FOR THE GENERAL PRICING LEVEL

Activity	1985 appropriation anticipated	Uncontrollable increase
Fact Witnesses.....	\$16,172	\$1,092
Protection of Witnesses:		
General Expenses.....	13,004	531
Victim Compensation fund.....	525	50
Expert Witnesses.....	13,115	623
Mental Competency Exams.....	275	13

## UNCONTROLLABLE INCREASE FOR THE GENERAL PRICING LEVEL—Continued

Activity	1985 appropriation anticipated	Uncontrollable increase
Total.....	43,091	2,309

## LITIGATIVE TACTICS

Mr. EARLY. You state government attorneys must have the ability to hire an adequate number of expert witnesses to provide opposing testimony and to counter the claims of the oppositions' expert witness. Is it a common occurrence for the expert witnesses to be bought off by the opposing side?

Mr. WALLACE. No, I don't think that was the intent of the statement, to indicate that we were buying off witnesses. Rather, in some technical areas, there are a precious few experts who are qualified to testify. If the government cannot employ someone who is qualified to testify, then the government is more likely to lose its case if the other side is able to employ somebody. It is a matter of being able to employ them or not.

Mr. EARLY. In many cases, though, doesn't the government have a lot more resources than the defendant has?

Mr. WALLACE. In what sense?

Mr. EARLY. I understand the Justice Department conducts a psychiatric analysis of every juror before a major trial. Is that correct?

Mr. WALLACE. I am not certain that that is the case.

Mr. MORRIS. No.

Mr. WALLACE. I will check, but I would be very surprised if that was true. I don't think that is the case.

Mr. EARLY. I was very surprised, also, but I think it is true. We will pursue it further with the FBI tomorrow. In the recent acquittal we spoke of in Massachusetts, I believe the defendant spent a half million dollars on his case but the Justice Department was able to psychoanalyze all potential jurors before the trial. I understand this is common practice for the Justice Department. This hardly seems fair.

Mr. WALLACE. I am not aware of that practice, but I will consult—

Mr. EARLY. Yes. If it is true, I would like to find out where the money comes from. Thank you, Mr. Chairman.

Mr. DWYER. Thank you, Mr. Wallace. We will have questions. You will submit your answers for the record please.

[The questions for the record and the answers submitted thereto follow:]

## QUESTIONS SUBMITTED BY CONGRESSMAN DWYER

## FEES AND EXPENSES OF WITNESSES

QUESTION:

You are requesting \$1,500,000 to cover the higher costs associated with the increased use of highly specialized expert witnesses. How much was available for this activity in FY 1984? How much is currently available for FY 1985 and how much has been obligated in this activity to date in the current fiscal year?

ANSWER:

In 1984, the Congress appropriated \$11,062,000 for the payment of expert witnesses. Late in the year, the Department reprogrammed \$1,000,000 from the Fact Witness activity to the Expert Witness activity as a contingency against exceeding the appropriated availability. The Department also placed stringent controls on approval of requests for expert witness authorizations during the final two months of the year. This effort helped to limit actual 1984 obligations to \$10.5 million.

For 1985, \$11,615,000 is currently available in the expert witness activity. The increase of \$553,000 over the 1984 amount consists solely of an uncontrollable increase in the general pricing level. Through the first six months of 1985, \$7,458,896 has been obligated for the payment of expert witnesses. This amount represents 64 percent of presently available funds. Although it is usual for obligations to be high in the first half of the fiscal year, this year's first half obligations include the effect of deferral of witness approvals at the end of 1984. Nevertheless, the Department believes costs can be limited to the \$13.1 million which would be available with enactment of the supplemental request. A listing of obligations by litigating organization follows:

	<u>Obligations</u>
U.S. Attorneys	\$2,829,414
Civil Division	1,673,736
Lands Division	1,344,997
Tax Division	682,646
Civil Rights Division	584,265
Antitrust Division	230,978
Criminal Division	112,860
TOTAL	7,458,896

QUESTION:

Can you provide for the record a listing of the type of expert witnesses used, the number used, the total fee for each witness type, and the average fee by type?

ANSWER:

Included is a listing of the type of witness, total fee, number of witnesses, and the average fee for each type of expert witness employed by the Department through April 5, 1985. Please note that the TOTAL line for the TOTAL FEE column is higher than the obligation amount provided in the preceeding question. This occurs since this listing reflects the original fee amount, whereas actual obligations include modifications to or elimination of some original obligations.

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REPORT #WITRPTS

ANALYSIS OF EXPERT WITNESS FEES  
BY TYPE OF WITNESS  
AS OF 04/05/85 AT 11.46.17

TYPE OF WITNESS	TOTAL FEES	NUMBER OF WITNESSES	AVERAGE FEE
ACC ANAL	2,525.86	2	1,262.93
ACCI RECON	94,079.64	16	5,879.98
ACCOUNT	81,750.17	13	6,288.47
ACTUARY	13,650.00	2	6,825.00
ADMIN	8,220.00	2	4,110.00
AGENT	4,599.37	2	2,299.68
AGRON	2,250.00	1	2,250.00
AIR COND	4,044.00	4	1,011.00
AIR TRAF	10,075.00	3	3,358.33
ANALY	200,090.65	11	18,190.06
ANTHR	6,468.64	2	3,234.32
APPRAISER	581,861.44	128	4,545.79
ARCHITECT	35,415.00	6	5,902.50
ARSON	3,834.81	1	3,834.81
ASSAYER	3,550.00	3	1,183.33
ATTY	4,463.00	4	1,115.75
AUDIOL	21,853.00	5	4,370.60
AUDITOR	1,704.90	1	1,704.90
AVIATION	36,143.40	9	4,015.93
BANKING	37,160.00	2	18,580.00
BIO-CHEM	6,950.00	1	6,950.00
BIOL	15,275.00	3	5,091.67
BLOOD	1,100.00	1	1,100.00
BOAT	800.00	1	800.00
BUTANIST	4,800.00	1	4,800.00

CONTRACT ADMINISTRATION SERVICE  
SPECIAL AUTHORIZATIONS UNIT  
REPORT #WTRPTS

ANALYSIS OF EXPERT WITNESS FEES  
BY TYPE OF WITNESS  
AS OF 04/05/85 AT 11.46.17

TYPE OF WITNESS	TOTAL FEES	NUMBER OF WITNESSES	AVERAGE FEE
BRKES	80,000.00	1	80,000.00
CHEMIST	23,093.18	20	1,154.66
CHILD CR	525.00	1	525.00
CHILD MOL	1,250.00	1	1,250.00
CLAY	12,325.00	2	6,162.50
COAL	42,980.00	1	42,980.00
COFFEE	3,400.00	1	3,400.00
COMMOD	4,000.00	1	4,000.00
COMMUN	6,000.00	1	6,000.00
COMMUNITY	6,893.00	1	6,893.00
COMPUTER	30,000.00	1	30,000.00
CONSTR	51,738.10	5	10,347.62
CONSULT	25,850.00	2	12,925.00
CONTRACTOR	900.00	1	900.00
CORRECT	3,726.00	1	3,726.00
COST EST	3,070.00	1	3,070.00
CRIM	6,537.00	3	2,169.00
DEMOGRAPH	7,950.00	1	7,950.00
DESEO	66,036.00	6	11,006.00
EDOL	8,500.00	3	2,833.33
ECON	940,125.29	65	14,463.47
ECONOMET	293,500.00	4	73,375.00
EDUCA	11,641.00	1	11,641.00
EMER SPEC	5,087.82	2	2,543.91
ENGINEER	1,387,726.86	101	13,739.87

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CONTRACT ADMINISTRATION SERVICE  
SPECIAL AUTHORIZATIONS UNIT  
REPORT 04ITRPT5

ANALYSIS OF EXPERT WITNESS FEES  
BY TYPE OF WITNESS  
AS OF 04/05/85 AT 11.46.17

TYPE OF WITNESS	TOTAL FEES	NUMBER OF WITNESSES	AVERAGE FEE
ENVIRON	1,750.00	1	1,750.00
EPIDEM	8,900.00	4	2,225.00
EQUIP	17,100.00	1	17,100.00
FACIL	11,096.00	1	11,096.00
FINANCE	25,728.00	2	12,864.00
FINGERPRNT		1	
FIRE EX	22,320.00	1	22,320.00
FISHING	1,125.00	1	1,125.00
FLOOD	32,000.00	1	32,000.00
FLOOR FIN	2,750.00	1	2,750.00
FORESTER	4,920.00	1	4,920.00
GENETIC	1,220.00	1	1,220.00
GEOL	115,706.09	16	7,231.63
GEOPHYS	16,880.00	2	8,440.00
GLASS	910.00	1	910.00
GLAZING	1,300.00	1	1,300.00
GOURMET	3,600.00	1	3,600.00
GUIDE	10,125.77	1	10,125.77
HANDWRIT	14,940.17	17	878.83
HEPETOLOGY	75.00	1	75.00
HIGHER ED	31,445.00	2	15,722.50
HIST	45,545.00	6	7,590.83
HYDROGEOL	1,942.86	1	1,942.86
HYDROL	74,094.26	6	12,349.04
HYGIEN	2,526.00	1	2,526.00



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CONTRACT ADMINISTRATION SERVICE  
SPECIAL AUTHORIZATIONS UNIT  
REPORT #WITRPTS

ANALYSIS OF EXPERT WITNESS FEES  
BY TYPE OF WITNESS  
AS OF 04/05/85 AT 11.46.17

TYPE OF WITNESS	TOTAL FEES	NUMBER OF WITNESSES	AVERAGE FEE
I.D.	950.00	1	950.00
INSTRUC	400.00	1	400.00
INSUR	8,264.92	4	2,066.23
INTERP	5,200.00	1	5,200.00
LAW	38,632.88	3	12,877.63
LAWYER	6,394.41	3	2,131.47
LIGHT SYS	200.00	1	200.00
LINGUISTICS	2,050.00	2	1,025.00
MACHINE	4,640.00	1	4,640.00
MANUFACT	2,150.00	2	1,075.00
MARINE	2,950.00	1	2,950.00
MARINE ANA	4,695.00	1	4,695.00
MECHANIC	1,310.00	1	1,310.00
METALLUR	3,550.00	2	1,775.00
METEOROL	42,361.55	9	4,706.84
METHOODL	22,962.00	1	22,962.00
MONT	23,821.00	4	5,955.25
MINERAL	115,365.71	4	28,841.43
MINING	21,324.40	4	5,331.10
MINK	9,550.00	2	4,775.00
MKTNG	39,785.00	2	19,892.50
NAVIGA	31,800.00	6	5,300.00
NEUROLOG	12,902.00	4	3,225.50
PENDL	5,173.00	2	2,586.50
PETRO	31,120.00	1	31,120.00

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CONTRACT ADMINISTRATION SERVICE  
SPECIAL AUTHORIZATIONS UNIT  
REPORT 041TRPTS

ANALYSIS OF EXPERT WITNESS FEES  
BY TYPE OF WITNESS  
AS OF 04/05/85 AT 11.46.17

TYPE OF WITNESS	TOTAL FEES	NUMBER OF WITNESSES	AVERAGE FEE
PHARM	1,300.00	2	650.00
PHARMACOL	17,370.00	2	8,685.00
PHOTO	3,493.39	2	1,746.69
PHYS	1,198,780.02	465	2,578.02
PHYS THER	3,000.00	1	3,000.00
PHYSICIST	24,924.25	4	6,231.06
PHYSIOL	33,081.55	2	16,540.77
PIANO	225.00	1	225.00
PILOT	96,243.01	18	5,346.83
PSYCHI	129,754.10	67	1,936.63
PSYCHOL	280,804.74	30	9,360.16
PSYCHOPHAR	3,750.00	2	1,875.00
REAL ESTATE	2,725.00	1	2,725.00
RECREATION	2,430.00	1	2,430.00
RECORD	13,012.50	1	13,012.50
REHAB COUN	2,844.00	2	1,422.00
REHABIL	31,433.00	12	2,619.42
RESCUE OP	7,100.00	1	7,100.00
RESEAR	111,729.79	5	22,345.96
SEARCH AND RESCUE	10,260.00	2	5,130.00
SCIENT	2,900.00	2	1,450.00
SECURITY	400.00	1	400.00
SFTY	9,957.00	4	2,489.25
SHIPYD	9,062.66	1	9,062.66
SOC MKR	1,721.47	1	1,721.47

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CONTRACT ADMINISTRATION SERVICE  
SPECIAL AUTHORIZATIONS UNIT  
REPORT 041TRPT5

ANALYSIS OF EXPERT WITNESS FEES  
BY TYPE OF WITNESS  
AS OF 04/05/85 AT 11.46.17

TYPE OF WITNESS	TOTAL FEES	NUMBER OF WITNESSES	AVERAGE FEE
SOCIAL	4,415.00	2	2,207.50
STATIST	433,067.57	21	20,622.27
SURGEON	7,376.50	4	1,844.13
SURVEYOR	7,871.11	6	1,311.85
TAPE	9,151.00	2	4,575.50
TAX	14,798.00	2	7,399.00
TEACHER	495.00	1	495.00
TITLE SRCH	34,829.25	1	34,829.25
TOPOGRAPH	1,200.00	1	1,200.00
TOXICOL	22,351.00	5	4,470.20
TRACTOR	350.00	1	350.00
TRANSL	32,890.00	3	10,963.33
TRANSLATE	900.00	1	900.00
UTIL	28,080.00	1	28,080.00
VALID	22,993.00	2	11,496.50
VISIBIL	27,600.00	2	13,800.00
VOCA TRNG	2,136.00	2	1,068.00
VOICE	2,081.60	2	1,040.80
WEATHER	6,300.00	1	6,300.00
XXXX	1,000.00	1	1,000.00
TOTAL	7,749,235.66	1277	6,068.30

QUESTION:

This program seems to have increased sharply in recent years. Why wasn't this additional need foreseen in your original planning for FY 1985?

ANSWER:

Planning for expert witness needs is a difficult and unscientific procedure. The organizations using expert witnesses have great difficulty estimating their need since the precise nature of the caseload for the upcoming budget year is not known. For example, when the Department was developing its 1985 budget request for this activity, we were not aware that the Criminal Division would be bringing fraud charges against General Dynamics, a case for which two experts have been hired at an anticipated cost of \$47,640 each. The Department did receive a program increase of \$2,493,000 for 1983, but requested no program increase for 1984 and 1985.

In an attempt to ensure adequate funding for this essential litigative support function, the Department has worked with the litigative organizations to develop improved planning estimates for 1986 and future years. These efforts were helpful in producing the 1986 request for an additional \$1,800,000.

## QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN

## FEES AND EXPENSES OF WITNESSES

QUESTION:

Your request includes an increase of \$1,800,000 for expert witnesses. That's a substantial increase. What are the reasons for this?

ANSWER:

The primary reason for the requested increase of \$1,800,000 is the increased cost associated with the greater use of highly specialized and, therefore, more costly expert witnesses.

The increased use of expert witnesses by the Department has been required by the increase in litigative activity experienced during this Administration. However, the most significant factor contributing to increased costs has been the higher average payment made to expert witnesses. The average payment has increased 33 percent from 1982 to 1984, from \$2,964 to \$3,935. Through the first six months of 1985, the average payment has risen to \$5,882 per witness.

At least two factors contribute to higher average payments. These include (1) payment of costs associated with the use of sophisticated techniques for testimony preparation in complex cases, and (2) relative scarcity of and competition for experts in novel or unusual areas subject to expert testimony.

Along with the increased average payment, two other factors have contributed to the increased demand for expert witnesses. First, the Department received significant increases in litigative staff in the 1984 and 1985 budgets. As these additional resources have become productive, the need for expert witnesses has increased. Second, the Department expects a sharp increase in the number of trials in "exotic" issue areas, such as toxic torts and hazardous waste.

QUESTION:

You are planning to fund this increase by transferring funds from the Support of U.S. Prisoners. What activities will this transfer impact within that account?

ANSWER:

The transfer is from the Care of U.S. Prisoners in Non-Federal Institutions program. After examining the account, we saw that our base had been overestimated because of lower jail day rates than expected and high utilization rate of Federal institutions. This transfer should not effect program performance.

DO NOT TYPE BEYOND THE DASH LINE

## QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

## FEES AND EXPENSES OF WITNESSES

QUESTION:

The Washington Post (September 20, 1984) reported that more than one fifth of the persons relocated with new identities under the Federal Witness Security program are arrested for serious crimes within two years after they join the program, according to a GAO study. The new Crime Control Act requires the Attorney General to weigh the risk to the public against the need for the person's testimony before relocating a witness. What standard was used before this Act? Will the new standard mitigate the problem? In short, why have we been so lax about this problem in the past?

ANSWER:

A study conducted by the General Accounting Office (GAO) in 1983 and 1984 did estimate a recidivism rate among protected witnesses of approximately 21 percent. The same GAO study also cited the results of a recent U.S. Parole Commission study using similar criteria. The Parole Commission survey computed the recidivism rate among Federal parolees at 47 percent, over twice that of protected witnesses.

Since April 1982, all witnesses entering the program are given a battery of vocational and attitudinal inventories to assist in determining suitable employment. These inventories have also proved helpful in pointing out those individuals who may have difficulty assimilating into their new communities and who may present behavioral problems. These individuals are personally interviewed and tested further by psychologists. Additionally, prospective program participants with a history of violent crimes have been evaluated in this manner since 1982. Based on the psychologists' assessments, the Marshals Service has been able to put special conditions on an individual's entry into the program (e.g., counselling, therapy, close supervision by probation authorities, etc.). In some instances, the Service has even recommended against an individual's entry altogether based on his propensity for violence and the likelihood that he would not follow program guidelines.

While it is not possible to predict completely and accurately future behavior, the Marshals Service and the Department of Justice feel that screening of this type is of significant assistance. Given that the Marshals Service initiated this evaluation program two and one half years prior to passage of the Comprehensive Crime Control Act of 1984, it was not a matter of laxness, but rather, finding the best method of assesment.

QUESTION:

What cost and bureaucratic procedures do you anticipate in implementing the logistics of the new child visitation and custody provisions of the Crime Control Act relating to witness relocation?

ANSWER:

The Marshals Service has requested a 1985 supplemental appropriation which includes \$775,000 for the Fees and Expenses of Witnesses appropriation to cover the cost of implementing the child custody/visitation provisions of the Comprehensive Crime Control Act of 1984. These funds are to cover travel and housing expenses for children and visiting non-program parent.

Additionally, the Act requires the Marshals Service to pay any litigation expenses should a custody/visitation dispute arise. The Marshals Service is in the process of revising its Witness Security manual and program entry documents to incorporate operational procedures required under the new Act. These revisions are almost complete.





MONDAY, APRIL 1, 1985.

**COMMUNITY RELATIONS SERVICE**

**WITNESSES**

**GILBERT G. POMPA, DIRECTOR**

**BERTRAM LEVINE, ASSOCIATE DIRECTOR FOR POLICY DEVELOPMENT**

**WALLACE WARFIELD, ASSOCIATE DIRECTOR FOR FIELD COORDINATION**

**H. DALE MEEKS, ASSOCIATE DIRECTOR FOR ADMINISTRATION**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR  
ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

Mr. DWYER. The next item we shall consider today is the fiscal year 1986 budget request for the Community Relations Service. The request is for \$33,217,000 which represents an increase of \$217,000 above the amount enacted to date for fiscal year 1985. We shall insert the justification submitted in support of this request in the record at this point.

[The justification material follows:]

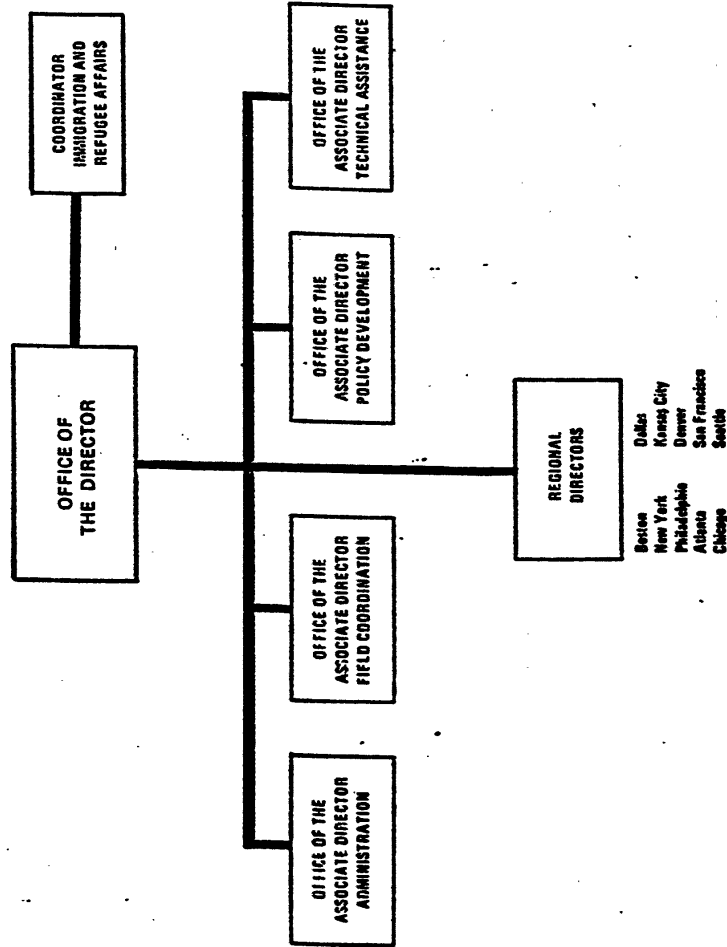
Department of Justice  
Community Relations Service  
Estimates for Fiscal Year 1986  
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# THE COMMUNITY RELATIONS SERVICE



803

Approved: *William French Smith* Date: *2/15/84*  
 William French Smith  
 Attorney General

Community Relations Service

Summary Statement

Fiscal Year 1986

The Community Relations Service is requesting, for 1986, a total of \$33,217,000, 118 permanent positions, and 115 workyears. This request represents a net increase over the 1985 appropriation anticipated of \$125,000. No program enhancements are sought in this request.

The Community Relations Service budget contains two budget activities: Prevention and Conciliation of Community Disputes; and, Reception, Processing and Care of Obsolete and Inactive. These activities include five programs: Technical Assistance; Program Operations; Reception, Processing and Care; Executive Direction and Control; and Administrative Services.

Prevention and Conciliation of Community Disputes

This activity is responsible for providing assistance to communities in resolving disputes, disagreements and difficulties arising from discriminatory practices based on race, color and national origin which impair the rights of people and threaten to disrupt peaceful relations. The agency's primary goal under this activity is the avoidance, diminution and resolution of racial-ethnic community conflicts. A subordinate goal is to help communities diminish future conflict, including the risk of major racial violence, by: a) addressing root causes, and b) improving communities' own conflict management capabilities.

The Technical Assistance program is an integral part of this assistance process. It makes possible improved program performance by enabling the field staff to more efficiently and successfully resolve disputes by providing them with technical information and assistance of program specialists and outside experts. In support of the Administration's emphasis on reducing violence in schools, CRS will join with other agencies of the Department of Justice, most notably, the Office of Justice Programs, to provide technical assistance to local school districts based on CRS' extensive experience in responding to cases of student violence.

The Program Operations program consists principally of the Agency's 10-region field staff of conciliators and mediators who are the Service's primary mechanism for resolving the many racial and ethnic conflicts which disrupt harmonious relationships and threaten the peace of the community. Problem areas include, but are not limited to, law enforcement, immigration, corrections, educational disputes, employment, housing, community development, Indian rights and economic development programs. CRS' intervention in such disputes as a third-party expert capable of enabling antagonists to work out voluntary solutions helps to avoid the prolongation and escalation of social conflict, racial violence, economic loss and community estrangement. Almost 1700 such disputes were brought to the agency's attention in 1984.

The Executive Direction and Control program embraces those principal areas of activity by which the Director establishes, transmits, and monitors the planning and execution of policy and program.

The Administrative Services program is responsible for supporting all the activities and programs with administrative budget and personnel services.

#### Reception, Processing and Care of Cubans and Haitians

This activity is responsible for the care and processing of Cuban/Haitian entrants as authorized by Title V of the Refugee Education Assistance Act of 1980, Public Law 96-622, and by Executive Order 12341 of January 21, 1982, which transferred these functions from the Department of Health and Human Services to the Department of Justice. This activity provides for the resettlement of Cuban and Haitian entrants paroled from Federal detention by the Immigration and Naturalization Service (INS). The activity is organized into five program areas. (Numbers in parentheses indicate the estimate of individuals or cases to be served in 1985 on the basis of past activities and current rates of increase.)

Program Area #1. Resettlement of Cuban entrants approved for release from Atlanta Federal Penitentiary under the provisions of the Attorney General's Status Review Plan. Resettlements are made primarily to structured, half-way house programs. Based on past resettlement trends and parole revocation rates 350 resettlements are projected for 1986. The actual number is currently unpredictable because of the recently negotiated accord pertaining to Mariel Cuban repatriation and related litigation pertaining to the government's ability to detain Mariel Cubans.

Program Area #2. Resettlement and Placement of Haitian and Cuban entrants from Krome North INS Service Processing Center. This includes: primary resettlement services for adult Haitian and Cuban nationals approved for release by INS (60); temporary shelter care services to minors (60); reunification with parents or other suitable placement of minors (75).

Program Area #3. Primary and Secondary Resettlement Services for Cuban and Haitian Entrants in South Florida (200).

Program Area #4. Resettlement of Cuban entrants discharged from Public Health Service funded mental health treatment programs (46).

Program Area #5. Research and evaluation to enable more cost-effective programming.

Additionally, OFS continues to assist INS to implement the Cuban Adjustment Act of 1966, P.L. 89-732.

OFS also provides funding to the Public Health Service for the provision of medical screening and mental health care and treatment in INS, institutional and community-based mental health facilities.

Loyal Activities  
Salaries and Expenses, Community Relations Service  
Proposed Authorization Language

The Community Relations Service is requesting the following authorization language:

Annual Authorization Proposal

For the Community Relations Service: \$33,217,000 of which \$26,583,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501 (c) of the Refugee Education Assistance Act of 1960, P.L. 96-422.

Permanent Authorization Proposal

The Community Relations Service of the Department of Justice is authorized to make payments from its appropriation for:

- (A) the hire of passenger motor vehicles; and
- (B) payments in advance for grants, contracts, and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1960 (P.L. 96-422) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants;

Community Relations Service

Salaries and expenses

Justification of Proposed Language Changes in Appropriation Language

The 1966 budget estimates include proposed changes in appropriation language listed and explained below. New language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses, Community Relations Service

For necessary expenses of the Community Relations Service, authorized by title I of the Civil Rights Act of 1964, (\$33,000,000) of which (\$26,500,000) shall remain available until expended to meet expenses in advance for grants, contracts and reimbursable agreements and other expenses necessary under Section 501(a) of the Refugee Education Assistance Act of 1960, Public Law 86-426, for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: Provided, that notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1960 (Public Law 86-426), if such Act is amended, funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

\$33,217,000  
\$26,500,000

Reauthorization (Pub. No. 1 of 1966) Department of Justice and Related Agencies Appropriation  
for 1966 additional authorized amounts to be provided.

Department of Justice

Departmental expenses proposed.

Level Activities  
Salaries and expenses, Community Relations Service  
Outlook of 1985 Charges  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request		Congressional Appropriation Actions on 1985 Request		1985 Pay Supplemental Requested		1985 Appropriation Proposed Anticipated				
	Pos.	Neg.	Pos.	Neg.	Pos.	Neg.	Pos.	Neg.			
1. Prevention and Conciliation of Community Disputes....	88	92	\$6,567	...	...	...	...	...	88	92	\$6,568
2. Reception, Processing and Care of Cubans and Haitians.....	30	23	27,561	...	...	...	...	...	30	23	26,524
Total.....	118	115	\$34,128	...	...	...	...	...	118	115	\$33,092

Explanation of Analysis of Charges from 1985 Appropriation Request

Congressional Appropriation Actions

The Congress reduced the Standard Level User Charges allowance by \$156,000, and reduced the Cuban-Haitian Entrant Care and Processing activity by \$962,000.

Supplemental Requested

The pay request provides \$135,000 to meet increased pay requirements (Executive Order 12496 dated December 28, 1984).

Proposed Reconciliation

In accordance with section 2908 of the Deficit Reduction Act, \$43,000 is proposed for resolution in the reception, processing and care program area.





General Legal Activities  
Salaries and expenses, Community Relations Service  
Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity: Prevention and Conciliation of Community Disputes	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	MI	Amount	Pos.	MI	Amount	Pos.	MI	Amount	Pos.	MI	Amount
Technical Assistance.....	5	5	\$361	5	5	\$373	5	5	\$373	...	...	...
Program Operations.....	64	68	4,861	64	68	4,868	64	68	4,868	...	...	...
Executive Direction and Control.....	13	13	1,050	13	13	1,066	13	13	1,066	...	...	...
Administrative Services.....	6	6	296	6	6	301	6	6	301	...	...	...
Subtotal.....	88	92	6,568	88	92	6,634	88	92	6,634	...	...	...

Activity: Prevention and Conciliation of Community Disputes	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	MI	Amount	Pos.	MI	Amount	Pos.	MI	Amount	Pos.	MI	Amount
Technical Assistance.....	5	5	\$361	5	5	\$373	5	5	\$373	...	...	...

Long-range goal: To facilitate more effective delivery of conflict resolution assistance to communities through a program of technical services, materials, and information in support of conciliation and mediation.

Major Objectives:

To provide a range of technical assistance including research and analysis data to agency consultants and mediators.

To produce technical publications and other written materials, as needed, in support of the agency's conflict resolution efforts.

To maintain a technical and background information center of periodicals, articles, and materials pertaining to issues affecting the work of the Community Relations Service.

To produce models for reducing conflict in school systems that affect interracial and inter-group relations, and to assist school districts in implementing these policies.

To assist police departments and training academies to improve police community relations programs and to resolve police/minority conflicts.

To provide on-site presence by specialists, experts and consultants to conciliators.

**Base Program Description:** This program function is an integral part of the conciliation and mediation process. It improves program performance by providing field staff with essential background and technical information for them to more efficiently and effectively resolve disputes.

Community Relations Service' conciliators and mediators are generalists, trained and experienced in the skills of community conflict management. Often their role is that of a catalyst, enabling resources within the community to combine in a new pattern in order to resolve a specific problem. Frequently, however, the resources within the community need bolstering from the outside. Such assistance, which is often provided by the Office of Technical Assistance & Support (OTAS), may take the following forms: on-site visits by the specialists from OTAS; the routine dissemination of information about new techniques applied successfully in other communities; technical information which will permit local resources to develop their own innovative programs; model programs that have enabled other communities to deal with similar problems; specific information about federal programs not previously used in the affected community; services by knowledgeable experts in the fields of Administration of Justice, Education and General Community Relations; consultants who have in-depth experience within a particular specialty; and regional resources which have not previously been identified by the affected community. In order to keep staff abreast of trends and developments in the executive, legislative and judicial branches of government, OTAS monitors activities and program proposals in these areas and advises staff on the likely success and impact of contemplated action. OTAS personnel, by maintaining contact with private organizations and academic institutions and undertaking special analyses at the request of staff, serve to expand the scope of OTAS case response.

The Office of Technical Assistance and Support also makes possible the multiplication of the impact of OTAS resources by: 1) dissemination of OTAS findings and techniques through national organizations and agencies via publications, training programs, distribution of materials and personal contact; and 2) collaboration in the joint sponsorship with other organizations of conferences on new techniques for dealing with critical problems.

Student populations, reflecting recent immigration trends and the reorganization of school attendance along racially and ethnically diverse lines, have created new patterns of group interaction, often confrontational, that inhibit the progress of academic achievement in some of our major school systems. Parents lose confidence in the ability of school personnel to protect and to intellectually challenge their children, and the sometimes violent and unlawful activity whereby both staff and students are regularly victimized becomes a daily occurrence. Through years of experience in dealing with school conflict, OHS has developed expertise in identifying the causes of disruptive student behavior and in assisting schools to implement plans to minimize friction and develop contingency plans for handling violence.

Accomplishments and Workload: Accomplishments of the Technical Assistance Program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Case consultations.....	605	572	615
Items of technical information provided.....	2,322	2,071	2,322
Technical publications produced.....	2	2	2
Training models distributed.....	3	3	40
Case analyses conducted.....	10	...	12
Status Reports on CRS case activity.....	4	4	4

The Office of Technical Assistance has been working with the National Urban League in six major cities to develop locally relevant crime prevention programs.

A major area of involvement continues to be conflicts arising from police use of deadly force. The unit has been coordinator since the inception of a program to stimulate innovative, cooperative efforts between police agencies and coalitions of minority groups. OHS is providing such assistance as helping to plan, develop resources for, and conduct local, state-wide and regional conferences to initiate cooperative police-minority action.

In education, OHS developed a monthly newsletter to staff updating their knowledge of judicial decisions and changes in governmental programs affecting local school systems. OHS has developed a unique assessment format that has enabled the agency to conduct a detailed educational assessment of critical issues and conflicts that need to be addressed.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	Wt. Amount	Pos.	Wt. Amount	Pos.	Wt. Amount
Program Operations.....	64	\$4,861	64	\$4,868	64	\$4,868
					...	...

**Long-Range Goal:** To assist in reducing racial community conflict through such voluntary means as: conciliating or mediating specific conflicts; preventing or reducing violence; establishing mechanisms for better communication and dispute resolution; providing an alternative to litigation; and helping communities to peacefully address underlying problems.

**Major Objectives:**

To help resolve approximately 950 racial-ethnic community disputes and conflicts.

To provide a cost-effective alternative to litigation of certain Federal court cases involving disputes based on race, color or national origin, by resolving 10-15 cases per year referred by U.S. District Courts.

To identify and provide special assistance to vulnerable communities to reduce the risk of racial violence.

To train school administrators and law enforcement personnel in approximately 100 school districts in methods of preventing and dealing with disruption and violence in multi-cultural schools.

**Base Program Description:** Community confrontations and disruptions related to disputes based on race, color or national origin occur throughout the United States, in many areas of human endeavor, and involve all of the larger and many of the smaller minority populations. Efforts to redress inequities, and resistance to such efforts, create many thousands of conflicts which disrupt harmonious relationships and threaten the peace of the community. Problem areas include law enforcement, immigration, corrections, educational disputes, employment, housing, community development, Indian rights and economic development programs, among others. ONS intervention in such disputes as a third-party expert capable of enabling antagonists to seek out voluntary solutions helps to avoid the prolongation and escalation of social conflict, racial violence, economic loss and community estrangement.

Community conflict related to racial inequities in education is prevalent throughout the nation. Problems proliferate as more and more school districts seek to educate an increasing proportion of minority students in a school environment inadequately prepared for change. There is a growing schism along racial lines on such issues as school closings, bilingual

education, unequal discipline standards, resegregation of once-desegregated schools, displacement of minority school teachers, and the choice of new programs which seek educational excellence in ways that serve the needs of minorities as well as whites. With minority school populations growing steadily in all areas of the country, conflicts over these issues will present a growing demand for GRS intervention in 1986.

Demographic changes also contribute to the volatility of minority relations. Six hundred thousand Indochinese refugees who have settled in American communities in recent years have begun to visibly assert their claims of social and economic equity. Asian American groups (such as the Chinese and Japanese) also report increasing incidents and tension levels with other racial groups. The perception is that these arise as by-products of Asian refugee and immigration problems and of international trade areas. The Hispanic population, native and resident, as well as undocumented persons, is growing rapidly and moving to non-traditional areas of settlement; and no effective solution has yet been found to steady the influx of undocumented people.

The increasing flow of undocumented persons from Mexico and El Salvador and elsewhere in Latin America will result, by 1986, in an unprecedented number of undocumented persons in the United States. Efforts to enforce immigration laws with respect to this population group are likely to escalate community conflict.

Ku Klux Klan activities and anonymous acts of minority intimidation continue at elevated levels across the country. Although the frequency appears to have leveled off, GRS sees no significant abatement of these incidents.

Consistent with the Department of Justice's policy of encouraging the litigative divisions as well as the courts to find effective alternatives to litigation, GRS has been asked to expand its activities in this regard. The agency has been tasked in the Attorney General's 1985 Policy and Program Guidelines with making its expertise available to the litigative divisions for this purpose.

Increasingly, community racial conflicts continue to find their way into Federal courts where they often linger for several years, at great cost to the courts and to the parties, while the consequences of the conflict fester in the community, embittering minority relations. When the issues are finally adjudicated on an adversarial basis, resentment persists and the antagonism between the parties grows more severe. To resolve such problems, a number of U.S. District Court Judges have been seeking an alternative to litigation by referring selected disputes involving race, color or national origin to mediation by GRS. The results in such cases have been the negotiation, in short order, of harmonious settlements. The benefits go beyond the cost savings, which can range upward of \$100,000 per case. They include abatement of the community antagonism which the suit perpetuated. They also help to establish a more amicable relationship between the parties who are now better prepared to settle among themselves many of the future conflicts which will arise.

Accomplishments and Workload: Accomplishments of the Program Operations program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Alerts received.....	1,741	1,662	1,800
Assessments processed.....	1,354	1,297	1,350
Conciliation cases conducted.....	1,036	952	950
Conciliation cases closed.....	799	718	800
Mediation cases conducted.....	26	22	40
Mediation cases closed.....	16	16	30
Community Tension Appraisals Conducted.....	75	60	60

While the CRS mandate requires the agency to resolve conflicts in individual communities, the net effect is to help assure the domestic tranquility of the entire nation. The approximately 970 conflicts resolved in 1984 throughout the nation, in communities of all sizes, were to a large extent those conflicts which, if unresolved, had the greatest potential to: a) escalate into violence; b) require stringent and costly measures of law enforcement; c) lead to costly and embittering litigation; or d) add to the smoldering pile of unresolved grievances which already burdens the minority consciousness. The CRS annual assessment of racial tension gives evidence that the resolution of conflict by CRS in a manner which reduces the minority perception of inequity and which demonstrates the responsiveness of established institutions, significantly reduces the risk of violent confrontations.

Since history has demonstrated that racial conflict tends to be epidemic, it is fair to assume that the timely resolution of these conflicts prevented the United States from appearing as, or becoming, a far more fractious and contentious society than it is.

In 1983, and again in 1984, CRS increased the efficiency of its "early warning system" for appraising the vulnerability of major cities for outbreaks of racial violence. With the development of an operations manual, greater responsibility for the development of appraisals was vested in the regional offices. CRS continued its extensive cooperation with Federal, State, local and private sector agencies and organizations in conflict resolution activities. CRS frequently encourages, advises or provides the initiative for the formation of local public/private coalitions to address particular problems contributing to racial conflict.

The number of local law enforcement agencies seeking CRS assistance in improving police-community relations has increased markedly as more communities have become sensitive to their vulnerability to heavy costs of liability suits alleging police misconduct. In most instances, such requests have led to revised programs, policies or training with respect to police use of force. CRS also convened statewide and regional conferences on municipal liability and use of deadly force for law enforcement executives and other public officials.

Police use of deadly force remained a vexing source of the most troublesome community conflicts. In Miami, for example, the fatal shooting of a young black adult in December, 1982 led to renewed civil disorder. CRS helped city officials reevaluate the firearms training given to officers, and also recommended purchase of a computerized audio-visual simulator that in other cities has enhanced police officers' ability to make better decisions about when to use deadly force in real-life situations. This, along with other CRS recommendations, contributed to the comparatively low level of conflict between Blacks and police during the March, 1984 disturbance.

In a number of cases, CRS helped public officials to cope with actions by the Ku Klux Klan, Nazi Party, or like-minded groups. CRS efforts throughout the country have assisted states and local government agencies, as well as civic leadership groups to develop a non-federal response to minimize the destructive effects of hate group activity.

CRS has helped school officials throughout the country to prevent and contain student racial violence. Typical is the establishment of "Student Response Teams" in the high schools at St. Louis, Mo.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount
Executive Direction and Control.....	13	13	\$1,050	13	13	\$1,056	13	13	\$1,066	...	...	...

Long-Range Goal: To enforce those principal areas of activity by which the Director establishes, transmits and monitors the planning and execution of policy and program.

#### Major Objectives:

- To develop and implement agency policy and provide management and supervision that assures maximum agency service delivery.
- To conduct and coordinate pertinent communications with the public, other Federal agencies and Departments, and the Congress.
- To provide legal review and analysis to Headquarters and field personnel.
- To prepare the annual budget and determine how appropriated resources shall be allocated.
- To coordinate program planning related at all levels to operational analysis and evaluation.

Base Program Description: In establishing the Community Relations Service by Title I of the Civil Rights Act of 1964, the Congress authorized the appointment by the President of a Director empowered to select personnel to carry out the functions and duties of the Service. The program of Executive Direction and Control embraces those principal areas of activity by



which the Director establishes, transmits, and monitors the planning and implementation of policies and programs. The demands upon CRS for service in conformity with its statutory mandate far exceed the agency's resources. Thus, the primary responsibility of the Director is to assure the most effective and efficient utilization of agency personnel and funds. This is made possible through the Operational Planning System, a cyclical process involving the planning of programs in response to guidance provided; the reporting, monitoring, and evaluation of program implementation; the routine study of programs and policy issues; the Quality Assurance System; and development of the budget and subsequent supervision of the achievement of its objectives.

The functions of executive direction and control are performed directly within the Office of the Director and within the Office of Policy Development.

Responsibility for the interpretation of the Agency to the public, for legal counsel, and for legal technical assistance to the Regions are all lodged in the Office of the Director. Media and Congressional relations are conducted by the Director and his personal staff, and a Special Assistant/Attorney coordinates essential Privacy Act and Freedom of Information Act research. The part-time efforts of other staff members are also utilized to fulfill the Agency's public affairs and legal obligations and requirements.

Accomplishments and Workload: Accomplishments of the Executive Direction and Control program are presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
Office plans reviewed/approved.....	14	15	15	15
Budget submissions and supportive testimony and briefings.....	3	3	3	3
Reports on statistical evaluation and analysis of operations.....	4	4	4	4
Quarterly statistical reports to Regional Directors.....	30	30	40	40
Issue papers prepared.....	2	2	2	2
Analyses of regional trends.....	4	4	4	4
Annual Community Tension appraisal.....	1	1	1	1
Responses to public and Congressional inquiries.....	35	70	70	70
Responses to FOIA/PA inquiries.....	40	60	60	60
Responses to requests for legal assistance from CRS offices.....	650	650	650	650
Proposed legislation studies.....	3	5	5	5
Periodic reports to Attorney General or Deputy Attorney General.....	110	100	100	100
Judicial & legislative items for review.....	800	800	800	800

Workload has increased due to the addition of the Oberly/Haitian Threat Program in 1983.

One information reported through the computerized Operational Data Information System provided the data base for quarterly and annual statistical analysis reports that monitored program implementation. These reports also provided agency-wide workload and performance data analysis that contributed to further policy development and to budgetary planning. Adoption of a Quality Assurance System in 1983 enhanced the agency's capability for monitoring and evaluation of the program. A Quality Assurance Board, chosen from executive and field staff, provides peer review of the conduct of casework.

Following a National Staff Development Conference in 1983 which focused on the changing nature of social conflict in the future, the demands this will make on OHS, and the methods for streamlining Agency resources to meet those demands, a staff commission was appointed by the Director in 1981 to develop specific recommendations for future utilization of OHS resources.

A Wang VS-45 mini-computer system was procured in 1981 to handle the agency's data and word processing in headquarters. Regional hardware is expected to be procured during 1985 and the new system should be completely operational by the end of 1985.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated	Pos.	WT	Account	Pos.	WT	Account	Pos.	WT	Account	Pos.	WT
Administrative Services.....	6	6	\$296	6	6	\$307	6	6	\$307	...	...	...
Long-Range Goal: To provide support for all the activities and programs with administrative, budget and personnel services.												

#### Major Objectives:

- To provide timely fiscal control and effective position management over resources flowing to or from the Service, and related information to all program elements supported.
- To provide timely advisory service to all management levels on technical matters related to Administrative Services.
- To provide for the timely processing of all administrative related requests for space, security, procurement, travel, financial reimbursement and all other administrative requests.
- To provide direct financial and administrative control over the grants aspects of the Cuban/Haitian Entrant Program.
- To provide for timely and efficient mail and messenger service.

To provide physical security for government and privately owned equipment under the control of the Service.

To provide for the implementation of an equal employment opportunity program for the Service.

To provide for a centralized records management system.

**Base Program Description:** Necessary administrative services are currently provided primarily through a liaison process with the Justice Management Division. The Administrative Services Program provides direct input of vouchers, personnel action requests, requests for goods and services, obligating documents, inventory control, etc., to the JMD accountability systems through a centralized administrative office located in the OAS headquarters. In addition, security and equal opportunity systems are provided directly by personnel assigned to the unit. Beginning with the transfer of the Cuban/Haitian Entrant Program, this office assumed additional responsibility in the direct monitoring of grants.

**Accomplishments and Workload:** Accomplishments of the Administrative Services Program are presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
Personnel actions reviewed and processed.....	260	200	250	250
Procurement actions reviewed and processed.....	650	650	700	700
Budgets prepared.....	3	3	3	3
Space adjustments processed.....	3	3	3	3
Financial records created.....	4,000	4,000	4,100	4,100
Invoices processed.....	1,500	1,500	1,600	1,600
Management analyses performed.....	..	..	11	11
OAS directives published.....	6	6	6	6
Special reports prepared.....	70	70	80	80
Financial reports prepared.....	100	100	110	110
Special projects conducted.....	12	12	24	24

Most major objectives contained within this program are ongoing in nature, and are not completed except for the planning stages of new systems. In 1983, the workload of this program increased significantly due to the acquisition by OAS of the Cuban/Haitian Entrant Program.

Activity: Reception, Care and Processing of Cuban and Haitian

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease		
	Pos.	Wt. Amount	Pos.	Wt. Amount	Pos.	Wt. Amount	
Reception, Processing and Care.....	30	23 \$26,524	30	23 * 6,593	30	23 \$26,583	... ..

Long-range Goal: To provide for the care and processing of Cuban/Haitian entrants as authorized by Title V of the Refugee Education Assistance Act of 1960, Public Law 86-422, and by Executive Order 12341 of January 21, 1982.

#### Major Objectives:

To provide resettlement services to Cuban and Haitian entrants released by the Immigration and Naturalization Service (INS), through the use of various voluntary and private agencies, and to monitor these placements.

To ensure that Cuban/Haitian entrant minors are provided professional care and assistance in an appropriate atmosphere, and to provide eventual sponsorship and placement of these minors.

To provide secondary resettlement for Haitian entrants in the South Florida area who have not attained self-sufficiency in the community.

To provide funding for the Attorney General's Review Panels established pursuant to the Attorney General's Status Review Plan.

To provide funding to the Public Health Service for health care and mental health services to Cuban and Haitian entrants, including, among other services, medical screening for contagious illnesses, health care for those under Federal detention, psychiatric evaluations, and institutional care in Federal and non-Federal psychiatric facilities.

Base Program Description: This activity is responsible for the care and processing of Cuban/Haitian entrants as authorized by Title V of the Refugee Education Assistance Act of 1960, Public Law 86-422, and by Executive Order 12341 of January 21, 1982, which transferred these functions from the Department of Health and Human Services to the Department of Justice. The activity provides resources for the resettlement of Cuban and Haitian entrants paroled from Federal detention by the Immigration and Naturalization Service (INS). The reception, processing and care functions are organized into five program areas. (The numbers in parentheses indicate the estimate of individuals or cases to be served in 1986 on the basis of past activities and current rates of increase).

Area 1. Resettlement of Cuban entrants approved for release from Atlanta Federal Penitentiary under the provisions of the Attorney General's Status Review Plan. Resettlements are made primarily to structured, half-way house programs. A small number of individual appointments are arranged. Based on past resettlement trends and parole revocation rates, preliminary projections of 350 resettlements were made. The actual number is currently unpredictable because of the recently negotiated accord pertaining to Mariel Cuban repatriation and related litigation pertaining to the exercise of the Attorney General's discretion in detention of Mariel Cubans. The proposed repatriation rate of 100 per month, continuation of the Attorney General's Review Plan, and completion of litigation suggest limited continued activity in this work area through 1966.

Program Area 2. Resettlement and Placement of Haitian and Cuban entrants from across North INS Service Processing Center. This includes primary resettlement services for adult and Cuban nationals approved for release by INS (608 individuals in 1966); provision of temporary shelter care services to minors for the period prior to their permanent resettlement as an alternative to detention of these children in an adult facility (60 children in 1966); and provision of appropriate resettlement services to minors either through reunification with parents or other suitable placement (75 minors in 1966).

Program Area 3. Primary and Secondary Resettlement Services for Cuban and Haitian Entrants in South Florida. This includes provision of primary resettlement services to entrants who were released from Federal detention in earlier years but who were not provided resettlement assistance (projected at 70 individuals in 1966); provision of secondary resettlement services for individuals who have not made successful adjustments in South Florida, assisting their relocation to areas affording enhanced opportunities for self-sufficiency (projected at 90 in 1966); and implementation of a planned secondary resettlement demonstration program targeted on assisting Haitian and Cuban entrant family units to effect resettlement to favorable alternate communities offering enhanced employment opportunity (100 cases in 1966).

Program Area 4. Resettlement from Public Health Service (PHS) Outplacement Projects provides community based resettlement services to Cuban entrants discharged from various funded mental health treatment programs (16 aliens in 1966).

Program Area 5. Research, Evaluation and Cuban Adjustment Assistance. CRS is pursuing a program of research and evaluation activity designed to enable more cost-effective programming, improved policy planning, and enhanced management of program information. Additionally, in 1966, CRS intends to continue to assist the INS to implement the adjustment of the status program for Mariel Cubans under the Cuban Adjustment Act of 1966.

Beyond these direct activities, CRS also provides funding to the Public Health Service for the provision of medical screening and mental health care and treatment in INS institutional and community based mental health facilities. CRS provides funding to the Criminal Division and to INS for administration of the Status Review Panels at Atlanta Federal Penitentiary under the Attorney General's Status Review Plan. CRS also provides funding to INS for provision of security at the Home and Relief Buildings on the grounds of St. Elizabeth's Hospital.

The program activities described above are provided by several agencies. All medical and mental health care and evaluation and the medical and mental health services provided by Federal hospitals and grant projects are administered by the Public Health Service (PHS). All resettlement and secondary resettlement assistance as well as the Federally funded assistance and service provided to the entrants ordered released by the Federal District Court are provided by the OHS.

Accomplishments and Workload: Accomplishments of the Reception, Processing and Care program are presented in the following table:

Item	Fiscal Year			Balance	
	1981	1982	1983	1982	1983
1. <u>ENTRANT POPULATION:</u>					
a. Cuban/Haitian Entrants (at the beginning of the year).....	2,122	1,409		1,755	2,195
b. Arrivals and revocations of parole during the year.....	770	1,187		1,020	1,020
c. Resettlements during the year.....	759	621		895	1,160
2. <u>GRANT ACTIVITIES:</u>					
a. Grant recipients processed.....	36	42		36	36
b. Resettlement grants awarded.....	20	28		20	20
c. Agencies receiving grants.....	18	22		22	22
d. On-site visits.....	86	65		65	65
1. <u>Population</u>					
a. Entrants in long-term health and mental health care.....	315	387		347	347
2. <u>Health and mental health care</u>					
a. Long-Term Care Residents at:					
Federal Facilities (PHS).....	92	92		92	92
Non-Federal Facilities (PHS).....	223	295		295	295
b. Individuals in need of long-term care:					
Other Facilities (DOJ).....	358	213		394	243
c. Short-Term Care:					
Number of clinic visits.....	25,113	29,652		29,652	29,695
Number of hospital days.....	346	569		569	569
d. Mental Health evaluations:					
PHS/HS Facility, St. Elizabeth's Hospital.....	50	50		50	50
Atlanta Federal Penitentiary (AFP).....	1,602	2,143		2,021	1,693
Other DOJ Facilities.....	50	50		50	50

Accomplishments and Workload (Continued):

Item	Estimates		
	1983	1984	1985
3. Grant activities:			
a. Mental health placement project applications processed (new projects only).....	8	11	20
b. Mental health placement project awards.....	7	10	9
c. Agencies receiving placement project awards.....	7	9	8
d. Cooperative agreements initiated.....	1	..	..
e. Cooperative agreements uninitiated.....	6	10	9
f. Cooperative agreements audited.....	4	5	5
g. On-site visits.....	14	15	14

During 1983, CRS was selected to administer the Cuban/Haitian Resettlement Program. This program was transferred to CRS for three reasons: (1) the increasing severity of the problems of the caseeload demanded a high degree of coordination with other agencies of the Department of Justice; (2) the increased difficulty of gaining community acceptance to resettlement of Cuban or Haitian entrants; and (3) the CRS knowledge of communities which could become potential resettlement sites.

CRS' efforts have met with a high degree of success with the new program in the past year. In 1983, the U.S. District Court in Atlanta commended CRS for its ability to place all entrants available for resettlement, reducing a large backlog. This performance level continued into 1984. Over 400 Cubans and over 380 Haitians have been resettled since CRS took responsibility for the program in March, 1983. In 1984, 250 Cubans and 287 Haitians were resettled.

CRS has worked with several communities in an effort to reduce community tensions about the placement of projects in their areas, and continues to put into action those skills effectively used in the more traditional CRS work. CRS has utilized field staff effectively to enhance the resettlement program, and this staff has gained information and experience from resettlement staff in working with the refugee groups.

Since the transfer of the Cuban/Haitian Entrant Program to CRS, the grants program has operated uninterrupted, issuing 34 new and amended grant awards for a total of \$1.4 million. CRS staff have conducted 62 on-site monitoring visits. CRS initiated a comprehensive audit of the grants program in 1984. CRS has established a system to document experience gained from this unique federal effort for possible use in responding to similar population shifts. CRS is in the process of establishing a new grants management policy and procedures manual and is revising the grants awardment instruments under which resettlement program applications are reviewed and awarded.

CBS has initiated a new direction in the secondary resettlement of Cubans and Haitians. CBS is projecting the secondary resettlement of approximately 500 entrants (mostly Haitian migrants) from the Belgica/Omalise Agricultural communities of South Florida. Grants will be issued to traditional voluntary resettlement agencies (VOLAGS) and community-based organizations.

Cuban entrants remaining in the Atlanta Federal Penitentiary (AFP) are those with highly anti-social backgrounds. They consist principally of: (1) those with criminal records who have been denied parole as possible threats to the community; (2) those who have had their parole revoked and were returned to AFP after having served time in local or state correctional institutions; and (3) those diagnosed as mentally ill. Under an order of the U.S. District Court, a large number of these must be resettled as soon as possible.

Because of these and other disabilities, community resistance to the resettlement of entrants has escalated and the program requirements for their effective placement have increased, resulting in a slower placement rate and increased per capita costs. CBS has established operational mechanisms designed to develop community relations and community conditioning support measures in connection with each resettlement grant. CBS has also established a research program to establish accurate demographic, criminal history and resettlement experience data on the Cuban entrant population in its purview.

In 1984, an average of 25 entrants per month were resettled. These individuals were all anti-social cases, the most difficult to resettle encountered in the program. The resettlement of these individuals was made more difficult by the imposition of an order by the Federal District Court of the Northern District of Georgia in 1983 which required that a new grant program be developed to hasten the release of Cuban entrants from the AFP and that the program be operational within 45 days. This required that traditional placement options be supplemented with an individual, non-related sponsorship program. It has significantly increased the amount of work necessary to develop acceptable resettlement prospects for the entrants. Since transfer of the program to CBS, in excess of 400 sponsorship applications have been issued, 134 received and processed, 67 home studies completed and 13 sponsorship grants awarded.

In 1984, proposals were received and recommended to establish projects offering transitional services for HHS clients determined suitable for release. Trends visible in 1984 indicate a continued increase in the numbers to be released from mental health care and resettled in 1985 and 1986 through CBS special placement projects.

HHS Accomplishments. During 1984, health care and related services were provided by HHS to Cuban and Haitian entrants detained by the Immigration and Naturalization Service (INS), Department of Justice at various locations throughout the United States.



#### Medical Care--

At the Krome North Service Processing Center (KNSPC), Miami, Florida, medical screening and medical care were provided by HIS personnel assigned to the HIS Medical Facility at this Center and by community hospitals and other health care providers in the Miami area under contract with HIS. In 1983, 149 Cubans and 250 Haitians (total 407) were medically screened in connection with the determination of their admissibility into the United States and to assure that they do not pose a health or safety threat to themselves or others.

During the course of the fiscal year, the average daily Cuban/Haitian detainee population was approximately 95 individuals representing a total of 34,732 detainee days. The Medical Facility provided 23,776 medical consultations, 1,199 mental health encounters and 160 dental visits. No detainees were hospitalized for tuberculosis. There were, however, 178 days of hospital care for medical and surgical problems and 82 days of inpatient care for psychiatric illness. In addition, specialized care is being provided to five patients at the National Hansen's Disease Center, Carville, Louisiana.

Program effectiveness is monitored not only by supervisory HIS personnel at each site but through periodic site visits by senior personnel and program and contract specialists from the Office of the Assistant Secretary for Health, the Centers for Disease Control and the National Institute of Mental Health, Alcohol, Drug Abuse and Mental Health Administration.

#### Mental Health Care--

During 1983, three new cooperative agreements were concluded with community-based residential mental health care providers bringing the total number of such programs to six by the end of the year. These programs are designed to provide comprehensive treatment and rehabilitation following the Cuban's release from the Helmer Building or other restrictive environments, but while the Cuban remains a Federal responsibility. At the beginning of FY 1983, the outpatient capacity was 105 Cubans. This figure increased to 233 at the end of October, 1983. Each of these programs received at least one monitoring visit.

The HIS conducts mental health evaluation of those Cubans currently in Federal custody to identify individuals who are mentally ill and/or mentally retarded. Placement options are then developed for each individual in preparation for the transfer to an appropriate level of care at a HIS inpatient or community-based treatment facility.

The full range of mental health evaluations provided includes initial psychiatric evaluation, psychological testing, neuropsychological testing, neurological evaluation (and, if necessary, EEG or CT Scan) and psychiatric or psychological re-evaluation on a regular basis. The schedule for re-evaluation of mentally ill Cuban inmates is currently once every six months to yearly depending on current diagnosis and severity of illness. For other inmates it is every two years, except for forensic cases which are seen every six months to yearly depending, again on current diagnosis and severity of illness. Oversight of this activity is maintained on a continuing basis by the National Institute of Mental Health.

During 1984, HHS established initial occupancy of the Hase Building on the grounds of St. Elisabeth's Hospital. This facility provided an addition to mental health care space capacity of 25 beds in late September, 1984, with a further accretion of 50 beds (total of 75) by late 1985. Operations costs for the Hase Building will total \$2.5 million in 1985 and \$2.7 million in 1986. These and other costs associated with new outplacement projects will be absorbed from carryover funds from prior years.

Legal Activities  
Salaries and expenses, Community Relations Service  
Priority Ranking

<u>Program</u>	<u>Base Program</u>	<u>Ranking</u>
Reception, Processing and Care of Quakers and Hostiles		1
Program Operations		2
Executive Direction and Control		3
Administrative Services		4
Technical Assistance		5

Community Relations Service  
Salaries and Expenses  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985 Authorized	1986 Request
Regional Directors (340).....	10	10	10
Senior Consultation Specialists (30).....	10	10	10
Consultation Specialists (30).....	41	41	41
Tech. Asst. Specialists (30).....	1	1	1
Accounting and Budget (500-599).....	1	1	1
General Admin., Clerical and Office Services (Other 500-599).....	55	55	55
Total.....	118	118	118
Washington.....	43	43	43
U.S. Field (Located in Washington).....	6	6	6
U.S. Field.....	69	69	69
Total.....	118	118	118

Legal Activities  
Salaries and expenses, Community Relations Service  
Summary of Adjustments to Base  
(Dollars in thousands)

	Per- Cent	Work- Years	Amount
1985 as enacted.....	118	115	\$33,000
Pay increase supplemental requested:			
Increased pay costs.....			Amount
Absorption.....			859
Net pay supplemental.....			-24
Proposed Reclamation.....			135
1985 Appropriation anticipated.....	118	115	33,098
Adjustments to base:			
Savings resulting from management initiatives.....			-161
Uncontrollable increases:			
Annualization of 1985 pay increase.....			60
Within-grade increases.....			43
Health Benefits costs.....			11
GPO Printing Costs.....			1
GSA recurring reimbursable services.....			4
Federal Telecommunications System (FIS).....			33
General pricing level adjustment.....			134
Total, uncontrollable increases.....			286
1986 Base.....	118	115	33,217

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Community Relations Service

Salaries and expenses

Justification of Adjustments to Base  
(Dollars in thousands)

	Work- Years	Amount
<u>Savings resulting from management initiatives:</u>		
Five Percent Pay Reduction.....	...	-4161
Savings of \$161,000 will be realized as a result of the proposed 5 percent pay reduction in salaries for civilian Federal employees.		
<u>Uncontrollable Increases:</u>		
1. Annualization of 1985 pay increase.....	...	60
This provides for the annualization of the January 6, 1985, pay increase contained in Executive Order 12896, dated December 28, 1984. There are 261 compensable days in 1985 and 70 pay days (October 1, 1984 through January 5, 1985) that were not included in the pay raise amount of \$36,000. Additionally \$24,000 of the request was absorbed. The calculation of the amount required for annualization is:		
70/261 X annual amount of pay raise.....		\$36,000
1985 absorption of pay .....		\$24,000
Total annualization.....		\$60,000
2. Within-grade increases.....	...	43
This request provides for an increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$9,000 and benefits \$1,000 = \$10,000).		

	Work- Years	Amount
3. Health benefits costs.....	...	\$11
<p>The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective for the first pay period after January 1, 1984, the Department's actual contribution to health insurance increased approximately 13 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$11,000 provides funds for increased costs from pay period No. 2 (\$3,133) to pay period No. 3 (\$3,547) projected for 26 pay periods.</p>		
4. General Printing Office (GPO) printing costs.....	...	1
<p>The Government Printing Office (GPO) is currently projecting a five percent increase over the 1985 printing cost of \$20,000. An additional \$1,000 will be required in 1986.</p>		
5. General Services Administration (GSA) reimbursable services.....	...	4
<p>Reimbursable payments are made to GSA for heating, ventilation and air conditioning provided in excess of normal working hours and for guard service. GSA estimates a 5 percent increase over 1985 charges.</p>		
6. Federal Telecommunications System (FIS).....	...	33
<p>The FIS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1986, the uncontrollable increase will be \$33,000 over the 1985 base of \$158,000.</p>		
7. General pricing level adjustment.....	...	134
<p>This request applies OMB pricing guidance as of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1985 estimates.</p>		
Total uncontrollable increases .....	...	265
Total adjustments to base.....	...	125

Community Relations Service  
Salaries and expenses  
Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Grades and salary ranges	1995 Estimate		1996 Estimate		Increase/Decrease	
	Positions	Amount	Positions	Amount	Positions	Amount
Executive Level IV, \$72,300.....	1		1		...	
GS-4, \$68,700.....	2		2		...	
GS/04-15, \$52,262-67,940.....	12		12		...	
GS/04-14, \$44,130-57,759.....	12		12		...	
GS/04-13, \$37,999-48,876.....	46		46		...	
GS-12, \$33,619-41,109.....	13		13		...	
GS-11, \$26,381-34,292.....	1		1		...	
GS-9, \$21,808-28,347.....	5		5		...	
GS-8, \$19,740-25,662.....	10		10		...	
GS-7, \$17,824-23,170.....	7		7		...	
GS-6, \$16,040-20,875.....	2		2		...	
GS-5, \$14,390-18,710.....	3		3		...	
GS-4, \$12,662-16,723.....	3		3		...	
GS-3, \$11,458-14,856.....	1		1		...	
Total, appropriated positions.....	118	\$4,740	118	\$4,619	...	-\$121
Pay above stated annual rates.....	...	18	...	18	...	...
Lapses.....	-7	-230	-7	-331	...	-101
Net savings due to lower pay scales for part of year.....	...		...		...	
Net permanent.....	111	1,538	111	1,386	...	-222
Average GS Salary.....		(668,700)		(665,300)		
Average GS/04 Salary.....		(958,442)		(956,520)		
Average GS/04 Grade.....		(12.7)		(12.7)		



Community Relations Service

Salaries and expenses

Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Object Class	1985 Estimate		1986 Estimate		Increase/Decrease
	Positions	Amount	Positions	Amount	Positions
11.1 Full-time permanent.....	111	\$4,528	111	\$4,306	...
11.3 Other than permanent:					
Part-time permanent.....	4	117	4	106	...
Temporary employment.....	...	...	...	...	...
Other part-time and intermittent employment.....	...	...	...	...	...
11.5 Other personnel compensation:					
Overtime.....	...	11	...	10	...
Other compensation.....	...	...	...	...	...
Total, workyears and personnel compensation.....	115	4,656	115	4,422	...
12 Personnel benefits.....	542		539		-3
13 Benefits to former personnel.....	5		5		...
21 Travel and transportation of persons.....	731		767		36
22 Transportation of things.....	7		7		...
23.1 Standard level user charges.....	843		843		...
23.2 Communications, utilities, and other rent.....	682		730		48
24 Printing and reproduction.....	21		29		8
25 Other services.....	25,400		27,443		2,043
26 Supplies and materials.....	67		70		3
31 Equipment.....	96		100		4
41 Grants.....	6,355		6,647		292
Total obligations.....	115	39,402	115	41,592	...
Unobligated balance, start-of-year.....		-14,698		-8,375	6,323
Unobligated balance, end-of-year.....		8,275		33,217	24,942
Total requirements.....	115	33,082	115	33,217	135
Relation of obligations to outlays:					
Obligated balance, start of year.....		10,155		10,798	643
Obligated balance, end-of-year.....		-10,798		-13,123	-2,325
Outlays.....		36,762		36,657	-105

1/ Total obligations differ from those shown in 1985 Budget Appendix. These amounts reflect corrected totals.

Community Relations Service  
Salaries and Expenses  
Consulting and Related Services  
(Dollars in thousands)

	1984 Actual	1985 Estimate	1986 Estimate
Consulting Services.....	\$18	\$18	\$18
Management and Professional Services.....	..	..	..
Special Studies and Analysis.....	..	..	..
Total.....	18	18	18

Consultants' services are used by the Community Relations Service only for those assignments which cannot be performed in-house. Consultants in various specialized areas of education and the administration of justice assist field staff in helping to resolve disputes and by working with community groups and major institutional leaders. Examples are police departments, school superintendent and school staff as well as community organizations which generally are led by business persons, as well as, civil rights organizations. No increases are requested for 1986.

## GENERAL STATEMENT

Mr. DWYER. We welcome the Director of the Community Relations Service, Gilbert G. Pompa, who has a statement in support of his request. Mr. Pompa, please proceed in your own way.

Mr. POMPA. Thank you, Mr. Chairman. I have submitted a formal copy of the statement and would like to summarize it to some extent, if I may, sir.

Mr. Chairman and Members of the Subcommittee, I am pleased to appear in support of the 1986 appropriations request for the Community Relations Service. The budget request is for \$33,217,000, 118 permanent positions and 115 workyears. The increase of \$125,000 over the 1985 appropriation anticipated consists entirely of uncontrollable expenses.

Two budget activities are involved. The first, Prevention and Conciliation of Community Disputes, will require \$6,634,000. The second, Reception, Processing and Care of Cubans and Haitians, will require \$26,583,000. Approximately twenty million of this is for medical and mental health service care by the Public Health Service.

In terms of prevention and conciliation of community disputes, CRS will be able to conduct its conflict resolution work in 1986 with no increase in resources because areas of increasing tension are partly matched by progress elsewhere.

Population shifts and increases into and within the country are stirring deep anxieties in communities inadequately prepared for change. Some examples in 1984: in a New England industrial city, pitched battles erupted between Hispanics drawn to low paying industrial jobs and long-time residents fearful of competition and resentful of new lifestyles.

In several other communities, violent misunderstandings between Korean retail merchants and neighboring Blacks developed with tragic consequences. In a midwestern industrial city which is losing jobs, blacks and whites violently vented their frustration against each other and the police.

In the rural South, tension between blacks and whites exploded into open warfare in which the exchange of gunfire left 9 wounded. A manufacturing city of less than 100,000 acquired 3,000 Cambodians within a few years and broke into a rash of conflicts over jobs, housing and depleted municipal services.

In an agricultural community, a meatpacking plant sought Southeast Asians to replace Hispanic workers who had begun to unionize. Elsewhere, ethnocentrism continued to inspire hatred and violence. In addition to the Klan, we see the emergence of nativist and survivalist groups desperate enough to take the lives of law enforcement officers opposing them. Elsewhere, the use of stones, burning crosses, swastikas, and physical attack to intimidate and deny access to housing to minorities still continues at elevated levels.

On the other side of the coin, we can hail a glimmering of progress. For the past decade CRS has led the effort to reduce deadly force by and against police. The result has been a measurable decline in the number of officers and civilians killed. Because the use of excessive force in police encounters is the single most

abrasive element rupturing relationships between police and minority communities, CRS will continue to emphasize the development of new approaches in this area.

In terms of the reception, processing and care of Cubans and Haitians, the conclusion on December 13, 1984, of an accord with the government of Cuba for the repatriation of 2,746 Cuban entrants will introduce a change of emphasis in 1986 for the Community Relations Service. In preparation for repatriation, resettlements of Cubans out of the Federal penitentiary in Atlanta have been terminated, but the halfway houses for the resettlement of Cubans will remain operational until well into 1986.

The Cubans in the Atlanta penitentiary comprise only one of several classes of Cuban and Haitian entrants who are covered by this program. The others are not affected by repatriation. A major focus of the problem is in South Florida, where three crushing needs still exist. First, the Immigration and Naturalization Service (INS) has asked CRS to provide greater assistance in the placement of unaccompanied minor children. As a result we are enlarging our placement program in both temporary shelter care and long term facilities.

Second is the secondary resettlement program targeted on families originally settled outside of this program which have failed to become self-efficient and constitute an oppressive burden on the economy and welfare facilities of the state.

Third, the Immigration and Naturalization Service Detention Facility in Dade County has been functioning at capacity level and was forced to increase the number of entrants bonded out which we are obligated to resettle. We will continue the program whereby patients successfully treated in the community mental health facilities, supervised by the Public Health Service, will move to the CRS established halfway houses so that they may be prepared for independent living in the community.

The Public Health Service part of the program will be phased down slowly because of the long-term care requirements of PHS' mental health care caseload. Mr. Chairman, that completes my presentation. I welcome the opportunity to respond to the questions of the subcommittee.

[The prepared statement of Mr. Pompa follows:]

DEPARTMENT OF JUSTICE  
COMMUNITY RELATIONS SERVICE

STATEMENT OF THE DIRECTOR  
GILBERT G. POMPA  
BEFORE THE HOUSE APPROPRIATIONS  
SUBCOMMITTEE ON THE DEPARTMENTS OF  
COMMERCE, JUSTICE, AND STATE, THE  
JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

Overview

I am pleased to appear in support of the 1986 appropriations request of the Community Relations Service.

The budget request is for \$33,217,000, 118 permanent positions and 115 workyears. The increase of \$125,000 over the 1985 appropriation consists entirely of uncontrollable expenses.

The work of the Community Relations Service consists of two budget activities. The first, Prevention and Conciliation of Community Disputes, will require \$6,634,000. The second, Reception, Processing and Care of Cubans and Haitians, will require \$26,583,000. The major share of the Cuban-Haitian amount, approximately \$20 million, is for medical and mental health service, care and treatment administered by the Public Health Service.

The Prevention and Conciliation of Community Disputes

The Community Relations Service will be able to conduct its conflict prevention and resolution work in 1986 with the same level of resources as in 1985, because areas of increasing social stress and tension are matched, in part, by heartening progress in other areas.

Conflict between racial and ethnic groups is increasing and taking on a more violent tone as a result of significant demographic changes. Population shifts and increases into and within the country are altering relationships and stirring deep anxieties in communities inadequately prepared for change. Example: A New England city which exploded into racial violence in 1984 saw pitched battles between newer Hispanic residents drawn to low paying industrial jobs and the established white residents fearful of increasing job competition and resentful of the influence of new lifestyles on the community. Example: In an increasing number of communities where Korean retail merchants are locating, misunderstandings with the Black residents of the surrounding neighborhoods are being acted out in expressions of violence. Example: Violence erupted in a midwestern industrial city in which jobs are rapidly vanishing. Blacks and whites vented their frustration against each other, and against the police who sought to reestablish peace. Example: In a rural community in the Southeast tension between Blacks and Whites exploded into open warfare in which the exchange of gunfire left nine wounded.

Other typical trouble spots, current and potential, include a manufacturing city of less than 100,000 which suddenly finds within it a Cambodian community of 3,000, which had not been there four years earlier. Job competition, deteriorating housing conditions, increased drain on municipal services result in a continual rash of intergroup conflicts. Another typical situation keeping the racial/ethnic pot simmering is focussed in an agricultural community where a meat-packing plant whose Hispanic workers began to unionize, sought to replace them with southeast Asian workers from a nearby city. Elsewhere in the country ethno-centrism continues to inspire expressions of hatred and acts of violence historically associated with such hate groups as the Ku Klux Klan. Now, in addition to the Klan we see the emergence of so-called survivalist groups. Known by such names as Posse Comitatus or the Aryan Nation, they demonstrate their determination to preserve a "pure" America to the point of taking the lives of law enforcement officers opposing them. Elsewhere the use of stones, burning crosses, swastikas, and physical attack to intimidate and deny access to housing to minorities still continues at elevated levels.

On the other side of the coin we can hail a glimmering of progress. For the past decade CRS has been at the cutting edge of efforts to reduce the toll of human life resulting from the use of deadly force by and against police officers. The result has been a measurable decline in the number of officers and civilians killed. Because the use of

excessive and deadly force in police encounters is the single most abrasive element rupturing relationships between police and minority communities, CRS will give renewed emphasis to the development of new approaches to speed the rate of progress resulting from this form of assistance to communities.

Reception, Processing and Care of Cubans and Haitians

The conclusion on December 13, 1984 of an accord with the government of Cuba for the repatriation of 2,740 Cuban entrants will introduce a change of emphasis in the 1986 budget, although reductions in program cost will not be realized until 1987 and the years beyond.

Because of this development, and also because of the decision of the Immigration and Naturalization Service to apply to the Mariel Cubans the adjustment of status provisions of the Cuban Adjustment Act of 1966, the Cuban/Haitian portion of the CRS budget must be viewed in three perspectives. First, the impact on CRS resettlement activities; second, the impact on Public Health Service Activities; third the impact on other agencies within the Department of Justice.

In preparation for repatriation, which is expected to proceed at a rate of not more than 100 per month, resettlements of Cubans out of the Federal penitentiary in Atlanta have been terminated. As a result, there will be no new admissions from this source to the halfway houses funded by CRS for the purpose of preparing these entrants for self-sufficient living in the community. Those presently in this out-placement program will continue to be served and so the halfway houses will remain operational for this group until well into 1986.



The Cubans in the Atlanta penitentiary comprise only one of several classes of Cuban and Haitian entrants who are covered by this program. The others are not affected by the current repatriation agreement. The objective of the 1980 legislation establishing the Cuban/Haitian entrant program is as critical as ever -- to provide an orderly interim settlement so that the entrants will not become either public charges or a danger to the public.

A major focus of the problem is in South Florida, where three crushing needs still exist. First, INS has asked CRS to provide greater assistance in the placement of unaccompanied minor children, because prolonged detention and unmonitored bond-out placements are not conducive to the health and morals of these young people. As a result we are enlarging our placement program in both temporary shelter care and long term facilities.

Secondly, CRS will be initiating in early 1986 a planned secondary resettlement program targeted at household units where families originally settled outside of this program have failed to become self-sufficient and constitute an oppressive burden upon the economy and welfare facilities of the state.

Thirdly, CRS will continue the program whereby mental health patients successfully treated in the community mental health facilities supervised by the Public Health Service, will move to the CRS-established halfway houses so that they may be prepared for independent living in the community.

The Public Health Service part of the program will be phased down slowly because of the long-term care requirements of PHS' mental health care caseload.

Mr. Chairman, that completes my presentation. I welcome the opportunity to respond to the questions of the subcommittee.

## CONFLICT RESOLUTION

Mr. DWYER. Thank you, Mr. Pompa. In your statement you say conflict between racial and ethnic groups is increasing and taking on a more violent tone. However, we know you are not proposing any program increase in this budget. How then are you going to deal with these increasing conflicts?

Mr. POMPA. As I have stated in the past and it is still true during this appropriation year, Mr. Chairman, we have developed a more sophisticated approach to these conflicts. The new assessment and evaluation of these types of conflict has enabled us to predict them a little bit more in advance than we have in the past.

We have developed a more detailed approach to evaluating and dealing with these types of problems. I think that on the basis of that, we have been able to assign resources in a more economical way and can provide the kind of service we need to provide without additional resources.

Mr. DWYER. Did you play a part in this New England episode?

Mr. POMPA. Yes, sir, we did.

Mr. DWYER. Did you predict that?

Mr. POMPA. Yes, sir, we did.

Mr. DWYER. Could you have stopped the battle?

Mr. POMPA. I think we might have been able to minimize it and maybe even prevent it had we had a little bit more cooperation from the government side of that particular case, sir.

Mr. DWYER. Do you predict more of these happening in the next fiscal year?

Mr. POMPA. Well, we will be concluding our annual assessments next month. At that time, we will be able to isolate the number of communities that we feel are at risk and we will be able to have a more definitive answer to that, sir.

## APPROACHES TO RESOLUTIONS

Mr. DWYER. When you define these communities that might be at risk, do you feel you have enough money in your budget to respond in the proper way?

Mr. POMPA. Yes, sir, the approaches to resolving the kind of disputes that we anticipate are geared primarily to getting or providing local solutions to these problems. So these efforts do not really involve anything more than our people transferring the benefits of our past experience to these communities and having some of our recommendations adopted in order to offset some of the possible problems that may be arising.

## TENSION ASSESSMENT

Mr. DWYER. What type of recommendations do you usually make? I know it varies from case to case, but if you can give us some examples.

Mr. POMPA. Generally, there are a series of things that we undertake in a community. I guess maybe it might help if I explained to you very briefly the process we use in order to anticipate some of these problems, sir. What we do is we conduct a very detailed tension assessment that involves a set of variables that we have isolat-

ed over a period of years that gives us a line or a fix on the possible underlying tensions within that community.

On the basis of that assessment, we are able to surface the kind of issues that might be prone to produce the kind of problems that are going to lead to conflict. For example, we look at such variables as economic anxiety, police minority friction, education, housing, and we look at general community relations problems within that community. We also look at certain subvariables within each one of these broad areas. By vector analysis in each of these areas, we are able to predict the plus or minus posture of each one of the areas and can come to a conclusion relative to the level of perceived inequality by a segment of the community and the responsiveness of the other. By doing that, we are able to isolate the key factors that are likely to produce a problem and tender various recommendations relative to them. A lot of times these communities don't know that they have the kind of problems they have or at least don't know the depth of the feeling regarding some of these perceived inequalities.

It is our job to bring them to the attention of the mayor, police chief, the superintendent of schools or various other people that might affect that negativeness going on in that community.

#### SELECTION OF LOCATIONS FOR ASSESSMENT

Mr. DWYER. How do you pick your communities? Do you base it on demographics of the communities?

Mr. POMPA. No, sir. It is left up to each region to decide which communities within that geographic area they want to assess. It is done on the basis of the number of problems that they have experienced over the course of the previous year.

We generally appraise about 75 communities nationally. That might vary by 10 or more within each region. The regional director then holds a meeting with his staff and they discuss each community. He then gives the go ahead to begin the assessment process within the selected communities.

Mr. DWYER. What do you do when the local officials don't take your recommendations.

Mr. POMPA. Well, there is not much we can do other than try to bring it to their attention. We try to do that and forewarn them that they may have a problem in that community. I can share with you the fact that most officials have been rather cooperative with us in the past. I think they will be even more cooperative in the future.

You rarely find an official who is not willing to sit down with you and discuss the fact that a Justice Department agency has found a certain problem in their community and is not only there to advise them about it, but also there to try to help them resolve it.

Mr. DWYER. Why don't you provide for the record those conflicts that you participated in trying to settle the last couple of fiscal years so the Committee has an idea just what the thrust is.

Mr. POMPA. We will do that.

[The information follows:]

CRS Cases

CRS closed a total of 1,549 cases in fiscal years 1983 and 1984. Brief descriptions of a sampling of these cases follows:

Annapolis, MD. Alleging illegal employment discrimination, individual black officers in the Annapolis Police Department and the Black Officers Association, Inc., filed three separate lawsuits in U.S. District Court.

Eventually, the three suits were combined, and the parties agreed to submit the issues involved to mediation under the auspices of CRS. The resulting agreement was formalized by the Court in a consent decree. Key features of the agreement are:

- Commitment by the city to undertake a recruitment program to attract black officers.
- Use of a validated transportable police entry level examination.
- Immediate adoption of changes in the screening and interviewing process for police candidates.
- Issuance of a general order prohibiting conduct or language which is racially or ethnically offensive.
- Appointment of a committee within the police department to explore on a monthly basis important issues, including racial/ethnic concerns and community relations.
- Designation of CRS to provide technical assistance to the police department in developing appropriate programs, including training, to maintain a healthy racial climate within the department.

Bloomington, IN. CRS responded to the shooting death of an outstanding black athlete by two white police officers, and the subsequent demands of the minority community that the police officers be dismissed and a thorough investigation conducted. Initial comments by public officials in defending the officers heightened the tensions. CRS proposed mediation of the conflict and a coalition of minority community leaders and city officials accepted the proposal. After a series of meetings, a mediated agreement was reached which included police in-service training in human relations, employment of an ombudsman, formation of a human relations commission, a revised citizen complaint system, and the recruitment and promotion of minority police officers.

Dallas, TX. Hispanic groups were alarmed when a 29-year-old Hispanic amputee was shot by Dallas police during a high-speed auto chase that lasted over 40 minutes. The suspect's pregnant wife and 10-month-old baby were also in the car during the chase but were unhurt.

Tensions were very high in the Hispanic and black communities, and local conflict resolution mechanisms did not appear to be having much impact on the situation. A coalition of Hispanic organizations asked CRS to provide mediation services.

A petition for redress of grievances was reviewed by the city manager, chief of police and city council. Later the city manager addressed most of the concerns mentioned in the petition. Meetings between the coalition and the chief of police, chaired by CRS, led the Chief to present a new draft policy on the use of deadly force. The city council also passed a resolution that states the council's position on safeguarding the civil and constitutional rights of citizens, particularly minority citizens. The coalition is now organized as a permanent body to advise the police chief.

Flint, MI. CRS received a request for assistance from the newly appointed police chief after a racial confrontation erupted for a second time in one week. In the first incident, whites attempted to forcibly enter a black family's home, and one intruder was fatally shot. The second violent attack upon two black families left no fatalities but police officers recovered 60 bullets from the homes.

CRS met with the police chief, mayor, human relations commission director, business leaders and other city officers to discuss strategies for preventing similar occurrences in the future. The agency recommended contingency plans to improve the city's response to racial violence, reassignment of police officers in troubled neighborhoods for preventive patrols and increased police visibility, and the formation of a rumor control system. CRS assisted in the development and implementation of the rumor control system.

Lubbock, TX. Relations between the Hispanic community and the law enforcement agencies were severely strained following a traffic accident in which a Hispanic was killed by a local baker. Hispanic organizations alleged racial bias in the way the District Attorney presented the case to the grand jury.

CRS convened a meeting with the district attorney, police chief, League of United Latin America Citizens (LULAC) officials and 15 Hispanic attorneys so that the handling of the traffic death could be explained to the interested parties. These presentations provided the group with a complete account of the facts of the case and the reasons for its prosecution under misdemeanor statutes rather than as a felony.

CRS suggested that the two sides attempt to establish lines of communication to assist in improving the administration of justice in the community. LULAC agreed to form a committee to assist the district attorney's office and the police department in areas such as: recruitment, community relations outreach, grand jury service, and others.

Salem, OR. In response to allegations of racial discrimination and conflict in state correctional institutions, CRS offered its assistance to the Oregon State Correctional Institution (OSCI). An assessment, designed by CRS, was conducted. It indicated that potential for serious racial conflict did exist. CRS then conducted a two-day training program for selected administrators and line staff. The training emphasized skill-building for crisis intervention. OSCI was then helped to establish a multi-racial crisis intervention team.

Springfield, OH. A coalition of minority organizations staged a sit-in to protest the alleged excessive use of force in the arrest of a black woman, who was charged with battery by the arresting officer. The incident developed when the woman called the police for assistance after having been locked out of her home. She was hospitalized for a week recovering from injuries received during the arrest. The demonstrators occupied the municipal building for eight days, interrupting city functions, and refused to leave the building when threatened with arrest and prosecution. The conflict was resolved through CRS mediation.

The city appointed a police-community relations committee, with two members selected by the community coalition. The committee has addressed such issues as human relations training, psychological testing, recruitment, promotion, and assignment of officers, and firearms policy.

Cincinnati, OH. A U.S. District Court appointed CRS to a settlement team along with a senior U.S. District Judge to resolve a ten-year-old school desegregation lawsuit. The parties were black students represented by the NAACP and the Cincinnati School District and the Ohio Board of Education. Out of concern that a lengthy trial would generate community and racial divisions, the court sought a mediated settlement of the litigation.

The results of mediation produced a general approach to desegregation of elementary and secondary schools on a voluntary basis, which met the defendants' interests, and set goals for reducing racial isolation on a school-by-school basis, which met the plaintiffs' interests. The parties also settled issues of student discipline, educational improvements in low-achieving schools, creation of a school-community desegregation task force, and a process for determining progress in fulfilling the agreement.

On the day before trial, the parties had agreed to all of the issues except a goal for elementary schools. The judge postponed the trial and assumed the role of settlement facilitator. One month later, the parties agreed to a goal for elementary schools and agreed on the extent of the state of Ohio's financial support in implementing the desegregation plan. This successfully completed the dispute resolution process. On February 16, 1984, the court announced settlement of the litigation.

## EFFECT OF REPATRIATION AGREEMENT

Mr. DWYER. You referred to the 2,746 Cubans and the fact that you have now recently negotiated a repatriation agreement. What effect will this have on your processing and care of Cuban and Haitian entrants? You made a statement.

Mr. POMPA. It is going to reduce to zero the number of Cubans we have been resettling on a monthly basis out of the Atlanta penitentiary because they are the ones that are affected by the repatriation agreement. We had been processing about 30 per month, who had been cleared through the Attorney General's review panel, a very elaborate process that reviews these people's backgrounds and records and clears them for resettlement.

Since that is no longer going to be the case, there is a termination of that activity. However, we have incurred other activities as a result of the repatriation agreement that will offset the savings that we are going to have as a result of the termination of the Atlanta Penitentiary activity.

Mr. DWYER. Mr. Early?

## OFFICE OF MANAGEMENT AND BUDGET RESOURCE REQUEST

Mr. EARLY. Thank you, Mr. Chairman. Mr. Pompa, I am a little surprised that your statement suggests that the Community Service, Prevention and Conciliation of Community Disputes, will only require \$6,634,000. Which is the same amount appropriated in fiscal year 1985.

Mr. POMPA. Yes, sir.

Mr. EARLY. What did you request of OMB for that account?

Mr. POMPA. I don't recall exactly. What did we request in terms of positions?

Mr. EARLY. Dollars. How much did you ask OMB for in dollars?

Mr. POMPA. We asked for ten new conciliators, whatever that would be.

Mr. EARLY. Isn't it a "programmatic account"?

Mr. POMPA. I don't have that information. I know what it was in positions. We are looking it up.

Mr. SHAFFER. The request to OMB was \$43,202,000 and 128 positions.

Mr. EARLY. Mr. Pompa, your budget doesn't provide any increase in this program. But your statement does imply that conflicts between racial and ethnic groups are on the increase.

Mr. POMPA. Yes, sir.

Mr. EARLY. Your request of OMB for \$43,202,000 certainly would imply that we need more money for community problems and disputes.

Mr. SHAFFER. Excuse me, Mr. Early, may I clarify? The \$43 million was a total request including the Cuban-Haitian Program.

Mr. EARLY. What was your specific request to OMB for Community Service, Prevention and Conciliation of Community Disputes?

Mr. SHAFFER. Approximately half a million more than the current level being requested. Ten positions and about a half a million dollars.

Mr. EARLY. So you originally requested roughly a 10-percent increase.



Mr. POMPA. \$491,000, I think it was, for ten mediators to handle court referred mediation cases.

#### LAWRENCE, MASSACHUSETTS DISPUTE

Mr. EARLY. Fine. Regarding the Lawrence dispute. Earlier, you suggested we could have done a better job.

Mr. POMPA. Probably we could have done a better job.

Mr. EARLY. What have we done, Mr. Pompa, to improve that situation and to prevent it from happening again anywhere in the United States?

Mr. POMPA. Well, I think we learned something from the Lawrence, Massachusetts, situation to the point that we have tried a little harder to get local officials to understand the need for discussing these things prior to something happening such as happened in Lawrence. I know the State of Massachusetts in general and certainly Lawrence in particular have been very receptive to working with the Community Relations Service in averting that kind of problem from happening again.

Mr. EARLY. Actually, I would think small communities—even smaller than Lawrence—create different types of problems that could be potentially explosive. The locals don't really have a police force or any organized effort to assist with your program.

Mr. POMPA. Yes, sir.

Mr. EARLY. I think the situation with the local community of Lawrence would have been handled better if there was more involvement with the police facilities, State police, individuals, et cetera.

Mr. POMPA. I am sorry, I didn't quite understand.

#### 'FALL RIVER-NEW BEDFORD, MASSACHUSETTS COMMUNITY PROBLEM'

Mr. EARLY. Mr. Pompa, was your agency involved in the Fall River-New Bedford, Massachusetts, community problem?

Mr. POMPA. Yes, sir, we were.

Mr. EARLY. How much money did you spend there?

Mr. POMPA. I don't know.

Mr. EARLY. Where or how would you have been involved in such a case? That was a State rape case. When would you have gotten involved?

Mr. POMPA. We were looking at the community relations implications of the trial and what spin-off effect or what spill-over effect it had on general relations in that community. That was our primary function during that particular case. The most effective thing that we do in these incidents, Congressman, is attempt to advise these communities relative to what we call intervening factors that can reduce the perceived level of inequality that is present in that community. The catalyst for the kind of problems that you had in Lawrence was primarily due to a high perceived level of inequality by a segment of that community.

There are certain things that a community can do to reduce that perceived level of inequality. We are not going to reduce the disparity we find there, but we can reduce the perceived level of inequality by involving that segment of the community that feels left out. That is what we try to do.

Mr. EARLY. In New Bedford-Fall River, you had a predominantly Portuguese district and a widely publicized rape case. Moreover, a Portuguese Attorney General depressed a jury that was made up of several Portuguese people. Then there was reaction from the public. I am not certain that your people should have been directly involved in the New Bedford incident, or exactly how you were involved? The Lawrence case, however, I believe was a different set of circumstances entirely.

Mr. POMPA. The New Bedford case was a minimal involvement for us, Congressman.

Mr. EARLY. I see. So there was nowhere near the amount of involvement in the New Bedford case when compared to the Lawrence incident.

Mr. POMPA. No.

Mr. EARLY. Is the Lawrence situation any better?

Mr. POMPA. We feel very comfortable with what is going on in Lawrence now.

Mr. EARLY. Has your agency utilized public relation-type activities in the Lawrence area in the effort to publicize how cooperation and coordination between local and Federal officials can be beneficial to everyone involved.

Mr. POMPA. Yes, sir, we have had a series of meetings with all the officials there and they have been very responsive and the media has picked up on that. So we feel that Lawrence has come a long way from where it was last year.

#### STATUS OF "HATE" GROUP OCCURANCES

Mr. EARLY. All right. Are incidents involving the Ku Klux Klan and Nazi-type of groups on the rise?

Mr. POMPA. I think the publicity attendant to those activities certainly is. I think much more in terms of the involvement of survivalist groups such as Posse Comitatus, an organization of this type, which I think is in the same category, that we generally have to be aware of in terms of responding to the community tensions that they produce.

Mr. EARLY. That Posse Comitatus group still doesn't want to pay any taxes, right?

Mr. POMPA. Well, that and a few other things like getting into conflicts with law enforcement officials.

Mr. EARLY. When they had their encounter with the law enforcement agencies, was there a community dispute after that?

Mr. POMPA. No, sir, not that I am aware of. I don't know that it had any specific implications for a particular community other than it generally raised the anxiety level in certain communities. And we have to measure that anxiety in the context of trying to determine what the tension level is.

#### CASE REFERRALS

Mr. EARLY. One final question, Mr. Chairman. Do you receive referrals or notice from other agencies within the Justice Department that indicate that there could potentially be a community type of problem or incident?

Mr. POMPA. Yes, sir, there are. We get them from the Lands Division regarding Indians. We get them from the Civil Rights Division regarding incidents that they can't respond to litigatively that are more in line with something we can do. And we do get them from other elements of the Department. U.S. Attorneys offices, for example, refer cases to us periodically. I can say that there is a tremendous amount of cooperation with other agencies within the Department of Justice in terms of referring cases to us.

Mr. EARLY. Thank you, Mr. Chairman.

Mr. DWYER. Thank you, Mr. Pompa.

We may have a question or two that you can submit the answers for the record.

[The questions and answers follows:]

## QUESTIONS SUBMITTED BY CONGRESSMAN DWYER

Completely fill the space from line to line

Community Relations ServiceQUESTION:

You say in your statement that CRS has been at the cutting edge of the efforts to reduce the toll of human life resulting from the use of deadly force by and against police officers and the result has been a measurable decline in the number of officers and civilians killed. What was the reduction in the number of officers and civilians killed in FY 1983, FY 1984 and thus far in FY 1985 as a result of CRS efforts?

ANSWER:

Since the early 1970's, CRS has been drawing attention to the tragic toll resulting from the use of deadly force in police encounters. Since that time the agency has also encouraged the development of measures to help resolve the problem and has provided technical assistance to police departments in over a 1,000 cases of alleged excessive use of force.

Elite type preferred

For the period from 1971 to 1978, the National Center for Health Statistics shows a reduction from 412 to 265 (36%) in the number of deaths "by legal intervention." (The category for recording deaths by law enforcement officers and by executions.) The reduction for non-white deaths was from 197 to 118 (40%). More recent data is not useable because of the inability to separate out the executions. Nevertheless, CRS is advised by qualified private researchers, who use data derived from unofficial sources, that the downward trend has continued.

For the five-year period from 1976 through 1980, FBI statistics indicate an annual average of 101 police officers killed. From 1981 through 1983 the annual figures are 91, 92, and 80 respectively. Data for 1984 have not yet been released, but the downward trend has continued.

QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN  
Community Relations Service  
Community Relations Service

QUESTION:

Have you generally noted a decrease or increase in tension levels among various racial/ethnic groups?

ANSWER:

The United States is facing an increasing problem of group-versus-group conflict. We anticipate that these clashes will grow in number and severity as a result of population movements into and within the country which are producing anxiety and competition for jobs, housing and social benefit programs.

QUESTION:

How are situations with a potential for overt conflict identified? Following identification, how are these problems resolved?

ANSWER:

CRS is alerted to actual or potential conflicts by a wide network of public and private organization officials, as well as individuals, and by media reports. Quite frequently the source of information will be someone who has been a party or a witness to a previous CRS case. Alerts that qualify are then subject to an assessment, often conducted on site, to determine whether the matter is one that CRS can and ought to resolve.

The criteria used in making that judgment include such considerations as the likelihood that the conflict will be resolved without our intervention, the imminence of violence, the likelihood that our methodology will be successful, and the critical nature of the conflict compared to other calls for assistance. The assessment also determines the case methodology to be used and the specific objectives to be achieved.

The plan for resolution of each case is tailor-made in response to the circumstances. Some methods often employed include: clarification of issues, establishing or improving communications between the parties, providing technical assistance in the form of expert consultation, models of successful programs used elsewhere, training of personnel, enlistment of other community resources to address underlying problems and mediation of a signed agreement.

QUESTION:

What amounts are you requesting for the Reception, Processing and Care of Cubans and Haitians?

ANSWER:

In the FY 1986 budget request to the Congress, we are requesting \$26,583,000 for the Reception, Processing and Care of Cuban and Haitian entrants.

QUESTIONS SUBMITTED BY CONGRESSMAN REGULA

Completely fill the space from line to line

Community Relations ServiceQUESTION:

I am interested in the "new approaches" to prevent the use of deadly force in police encounters that you mentioned in your statement. What do these approaches entail?

ANSWER:

In the past two years the Community Relations Service (CRS) has made effective use of a videotape developed in 1983 for the purpose of counselling police agencies and municipal governments on the avoidance of civil liability suits for police misconduct. Following presentation at area-wide meetings of police commanders, city attorneys, mayors, etc., these tapes often lead to follow-up requests to provide individual police departments with training and technical assistance for the improvement of policies and practices regarding the use of deadly force. The large number of these requests indicates that this form of assistance will continue to be in demand for several years. (120 reactions per month)

In appropriate instances, CRS aids police departments in the selection of training modalities on the use of firearms. For example, following the Miami riot in 1982, CRS introduced the police to a multi-media training device which simulates realistic stress situations requiring officers to make instant decisions as to whether or not to shoot. All officers now receive recurrent training with the simulator.

CRS is currently developing a situational analysis manual on the use of deadly force for the training of police executives. Working with a panel of police chiefs, CRS experts are identifying typical situations which result in police use of firearms, and setting forth the police response patterns which, in each type of situation, experience indicates would be most suitable to avoid officer and civilian fatalities.

CRS is also planning to examine new technological developments in non-lethal weaponry to enlarge our technical assistance capability in that area.

QUESTION:

With regard to the Cuban situation, will any of the Cubans previously resettled in halfway houses before the December accord with Cuba be repatriated? Do any of these Cubans represent a threat to society? What standard is being applied to determine who will be sent back?

ANSWER:

Some of the Cubans previously resettled in halfway houses before the December accord will be repatriated. Some of these Cubans do represent a threat to society. (100 reactions)

Marinel Cubans who have been found excludable under applicable sections of the Immigration and Nationality Act will be returned to Cuba. It should be noted that although the terms of the December agreement extend to the 2,746 individuals identified by the U.S. as excludable as of the time of the agreement, the Government of Cuba clearly understands that the U.S. will continue to expect Cuba--as we would any other nation with which we have normal immigration--to accept the return of its nationals found excludable under U.S. law. Thus, the U.S. may, through normal immigration procedures, request Cuba to accept additional Cuban nationals not on the list who may be determined to be excludable in the future. Cuba, like all other nations, remains subject to the requirements of Section 243(g) of the Immigration and Nationality Act.

It should also be noted that the agreement does not in any way affect the rights of the individuals under U.S. law. Each of those considered excludable retains all of the due process rights afforded under normal U.S. immigration practice and procedures. The decision as to whether an individual will actually be returned to Cuba will be determined by U.S. administrative and judicial authorities.

#### INSTRUCTIONS

Elite type set 6-10-61





TUESDAY, APRIL 2, 1985.

**FEDERAL BUREAU OF INVESTIGATION**

**WITNESSES**

**WILLIAM H. WEBSTER, DIRECTOR, FBI**

**WILLIAM LEE COLWELL, EXECUTIVE ASSISTANT DIRECTOR-ADMINISTRATION, FBI**

**THOMAS A. HUGHES, INSPECTOR-DEPUTY ASSISTANT DIRECTOR, FINANCIAL MANAGEMENT BRANCH, ADMINISTRATIVE SERVICES DIVISION, FBI**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION, DOJ**

**CHARLES R. NEILL, CONTROLLER, DOJ**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF, DOJ**

**BUDGET REQUEST**

Mr. Smith. This morning we consider the 1986 budget request for the Federal Bureau of Investigation.

The request is for \$1,185,664,000 and that is an increase of \$38,541,000 above the appropriations enacted to date for fiscal year 1985. We will also consider a program supplemental of \$1.5 million for the FBI.

We shall insert the justifications in the record at this point.

[The justifications follow:]

Department of Justice  
Federal Bureau of Investigation  
Estimates for Fiscal Year 1986  
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U.S. Department of Justice  
Federal Bureau of Investigation

# Organization Of The FBI

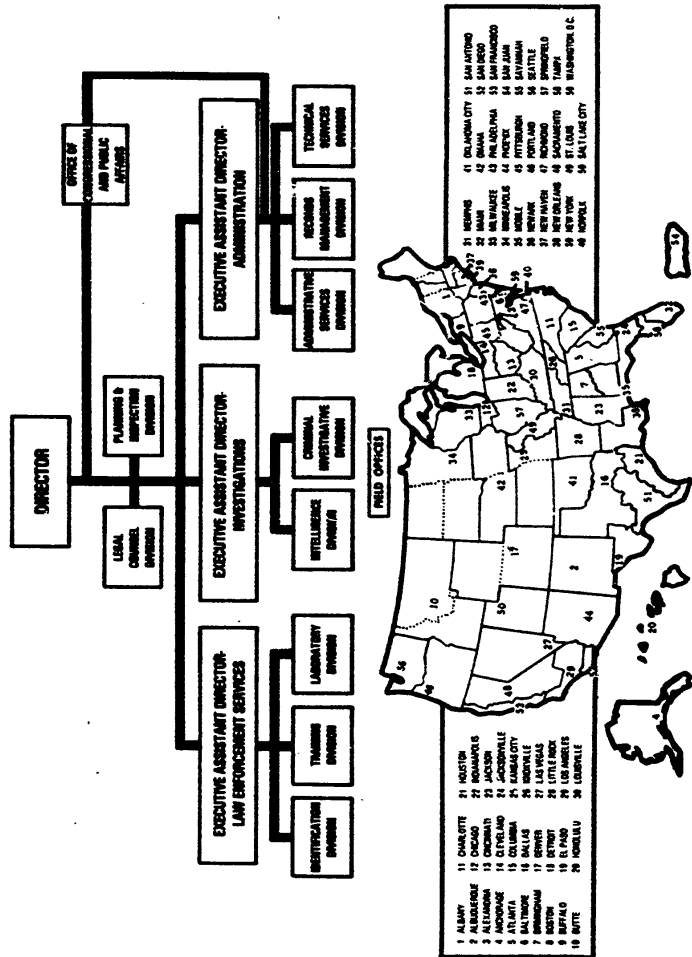


Exhibit No. 8

Federal Bureau of Investigation

Salaries and expenses

Summary Statement

Fiscal Year 1986

For 1986, the Federal Bureau of Investigation is requesting a total of \$1,185,664,000, 21,408 permanent positions, and 20,823 workyears. This request represents \$38,541,000, 519 positions, and 504 workyears over the 1985 appropriation.

The primary mission of the Federal Bureau of Investigation is to investigate violations of laws over which it has jurisdiction and to provide accurate and timely information relating to applicant and civil matters and the national security to the Executive Branch. This request contains four budget activities incorporating nineteen programs. The budget activities are: Criminal, Security, and Other Investigations; Investigative Support; State and Local Assistance; and Program Direction. The major initiatives and resource requests for 1986 for these activities and attendant programs are summarized below.

Criminal, Security, and Other Investigations:

This investigative activity is the only activity receiving a program increase in 1986. The principal investigative programs of this activity are Foreign Counterintelligence, Organized Crime, White-Collar Crime, Terrorism, and General Crimes. In keeping with the desires of the President and the Attorney General, foreign counterintelligence, organized crime, terrorism, and white-collar crime, including political corruption, continue to be the areas in which the FBI places the greatest emphasis as these areas pose the greatest threat to the moral, economic, and domestic stability of the United States.

A program increase of 371 positions, 269 workyears, and \$34,535,000 is requested in this activity over the 1985 level. Justification for these additional resources is set forth in the "Special Analysis of Field Program Exhibit."

Investigative Support:

No additional resources are requested for investigative support in 1986. The programs in this activity are: Training; Forensic Services - Federal; ADP and Telecommunications; Legal Attaches; Records Management; and Technical Field Support and Equipment. This activity provides the training and "tools" necessary to meet the demands of the FBI's objectives. It includes the maintenance of all investigative records and the entire FBI communications system.

#### Investigative Support: (continued)

Base funding will meet the urgent need to expand the dormitory and classroom space requirements at the FBI Academy, highlighting training that was either eliminated entirely or severely curtailed due to limited facilities. Personnel increases appropriated in recent years have exacerbated this situation. The FBI must provide the sophisticated training that is necessary in an era of increasingly complex investigative challenges. For example, the Forensic Science Research and Training Center (FSRTC) was constructed in 1981. There was, however, no corresponding increase in dormitory space to accommodate this instructional facility. During 1984, 3,385 students were trained in the FSRTC. This number of students cannot be continued in the face of competing demands for dormitory space by higher priority programs. Continued efficient, effective utilization of the FSRTC in contingent upon construction of additional dormitory space. The 1986 base includes funding, in the amount of \$13.1 million, to build a third dormitory/classroom facility at the FBI Academy. Funding for site preparation for this facility was included in the 1985 budget and these funds, which normally would have been nonrecurred, have been annualized and included in the base for 1986.

#### State and Local Assistance:

The FBI provides state and local law enforcement officials with training, laboratory, fingerprint identification, and information services. No additional funding is included for these services in 1986. The following programs are in this activity: General Law Enforcement Training; Forensic Services - Non-Federal; Fingerprint Identification; and Criminal Justice Data and Statistics Services. These services are important to state and local law enforcement and, as a result, Federal law enforcement receives valuable reciprocal services from state and local authorities.

The National Center for the Analysis of Violent Crime (NCAVC) was established in 1984 and will continue in 1985 through funding provided from other components of the Department of Justice. Funding for continuation of this valuable operation will be provided from base funding in 1986. The NCAVC is a behavioral science and data processing resource center which consolidates research, training, and investigative support functions for the purpose of providing expertise to law enforcement agencies which are confronted with unusual, bizarre, and/or particularly violent or repetitive violent crimes.

#### Program Direction:

This activity consists of two programs: Executive Direction and Control and Administrative Services. Included are the executive direction, administrative, legal, planning, inspection, and financial management functions of the FBI. In accordance with the President's directive that administrative services be reduced Government-wide by 10 percent in 1986, the two programs show program decreases totaling \$4,971,000.

Federal Bureau of Investigation

Salaries and expenses

Proposed Authorization Language

The Federal Bureau of Investigation is requesting the following authorization language:

Annual Legislative Proposal

For the Federal Bureau of Investigation: \$1,185,664,000, of which not to exceed \$25,000,000 for automated data processing and telecommunications and \$1,000,000 for undercover operations shall remain available until September 30, 1987; Provided, that notwithstanding the provisions of title 31 U.S.C 3302 and 9701, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than \$13,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services; Provided further, that \$13,120,000 shall remain available until expended for constructing and equipping new facilities at the FBI Academy, Quantico, Virginia.

Permanent Legislative Proposal

The Federal Bureau of Investigation is authorized to make payments from its appropriation for:

- (A) expenses necessary for the detection and prosecution of crimes against the United States;
- (B) protection of the person of the President of the United States and the person of the Attorney General;
- (C) acquisition, collection, classification, and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies;
- (D) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;
- (E) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;
- (F) acquisition, lease, maintenance, and operation of aircraft;
- (G) purchase of firearms and ammunition and attendance at firearms matches;

- (H) payment of rewards;
- (I) expenses to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for on the certificate of the Attorney General or the Deputy Attorney General;
- (J) payment of travel and related expenses for immediate family members of employees, including expenses incurred for specialized training and orientation in connection with a transfer to Puerto Rico, other territories and possessions of the United States, and assignment in a legal attaché post outside the territory of the United States;
- (K) research related to investigative activities;
- (L) none of the sum authorized to be appropriated for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service;
- (M) The Federal Bureau of Investigation may establish and collect fees for the processing of noncriminal employment and licensing fingerprint cards. Such fee is to represent the cost of furnishing the service. The funds collected shall be credited to the Salaries and Expenses, Federal Bureau of Investigation appropriation without regard to 31 U.S.C. 3302(b), and may be used to pay for salaries and other expenses incurred in operating the FBI Identification Division. There will be no fee assessed in connection with the processing of requests for criminal history records by criminal justice agencies for criminal justice purposes or for employment in criminal justice agencies. Criminal justice agency is defined in 28 CFR 20.3.

Sec. 599 "Federal Bureau of Investigation Undercover Operations"

- (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence.
  - (1) sums authorized to be appropriated for the Federal Bureau of Investigation may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to 31 U.S.C. 1341, section 3732 (a) of the Revised Statutes (41 U.S.C. 11(a), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), 31 U.S.C. 3324, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

- (2) sum authorized to be appropriated for the Federal Bureau of Investigation may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to 31 U.S.C. 9102;
- (3) sum authorized to be appropriated for the Federal Bureau of Investigation, and the proceeds from such undercover operation, may be deposited in bank or other financial institutions, without regard to 18 U.S.C. 648 and 31 U.S.C. 3302; and
- (4) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to 31 U.S.C. 3302, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines of FBI Undercover Operations, as in effect on July 1, 1983) and the Attorney General (or, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (1), (2), (3), or (4) of this paragraph is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counter-intelligence, the certification that any action authorized by subparagraph (1), (2), (3), or (4) of this paragraph is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.
- (b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraph (3) and (4) of paragraph (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.
- (c) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (2) of paragraph (a) with a net value of over \$150,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation, as much in advance as the Director or his designee determines practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.
- (d) (1) The Federal Bureau of Investigation shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1986, and each fiscal year thereafter,
  - (A) submit the results of such audit in writing to the Attorney General, and
  - (B) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.



- (2) The Federal Bureau of Investigation shall also submit a report annually to the Congress specifying -
- (A) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,
  - (B) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and
  - (C) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on FBI Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to -
    - (i) the results,
    - (ii) any civil claims, and
    - (iii) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.
- (e) For purposes of paragraph (d)(1) -
- (1) the term "closed" refers to the earliest point in time at which -
    - (a) all criminal proceedings (other than appeals) are concluded, or
    - (b) covert activities are concluded, whichever occurs later,
  - (2) the term "employee" means employee, as defined in 5 U.S.C. 2105, of the Federal Bureau of Investigation, and
  - (3) the terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation (other than a foreign counterintelligence undercover investigative operation) -
    - (A) in which -
      - (i) the gross receipts (excluding interest earned) exceed \$150,000, or
      - (ii) expenditures (other than expenditures for salaries of employees) exceed \$150,000 and
    - (B) which is exempt from 31 U.S.C. 3302 or 31 U.S.C. 9102, except that clauses (A) and (B) shall not apply with respect to the report required under subparagraph (2) of such paragraph.

# Federal Bureau of Investigation

## Salaries and expenses

### Justification of Proposed Changes in Appropriation Language

The 1986 budget estimates include proposed changes in the appropriation language listed and explained below. New language is underlined and deleted matter is enclosed in brackets.

#### Salaries and expenses

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of, not to exceed [one thousand seven hundred] one thousand six hundred passenger motor vehicles of which [one thousand five hundred fifty] will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; [\$1,147,123,000] of which not to exceed [\$23,000,000] for automated data processing and telecommunications and \$1,000,000 for undercover operations shall remain available until September 30, [1986]; and of which [1987] [\$10,000,000] for research related to investigative activities shall remain available until expended; Provided, That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for non-federal employment and licensing purposes, and credit not more than \$13,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services; Provided further, That [\$12,782,000] shall remain available until expended for constructing and equipping new facilities at the FBI Academy, Quantico, Virginia: Provided further, That not to exceed \$45,000 shall be available for official reception and representation expenses. (28 U.S.C. 524, 531-37, 18 U.S.C. 3052, 3059, 22 U.S.C. 4081, 4084, DOJ and Related Agencies Appropriation Act, 1985, additional authorizing legislation to be proposed.)

#### Explanation of Changes:

1. One hundred fifty additional vehicles are requested based on the number of new special agents anticipated.
2. The \$13,120,000 for the construction of a Dormitory/Glennroom Facility is requested "until expended" because of the time necessary for construction projects.

## Federal Bureau of Investigation

## Salaries and expenses

Grosswalk of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request				Congressional Appropriation Actions on 1985 Request				Reprogramming				1985 Supplementals Requested				1985 Proposed Reconciliation		1985 Appropriation Anticipated	
	Fon.		Wt		Fon.		Wt		Fon.		Wt		Fon.		Wt		Fon.		Fon.	
	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.	Ant.
1. Criminal, Security, and Other Investigations:																				
Other Field Programs.....	7,807	7,541	\$391,595	...	...	...	...	...	63	62	\$1,485	12	3	\$130	\$7,067	...	...	7,882	7,606	\$399,563
Organized Crime.....	2,519	2,429	118,105	...	...	...	...	...	18	18	480	20	5	204	2,786	-532	...	2,557	2,452	120,916
White-Collar Crime.....	2,823	2,736	137,495	...	...	...	...	...	...	...	...	113	28	1,136	1,837	-532	...	2,936	2,764	139,187
CCDE.....	446	443	34,733	...	...	...	...	...	...	...	...	...	...	...	...	...	...	446	443	34,664
Subtotal.....	13,595	13,149	681,928	...	...	...	...	...	81	80	1,965	145	36	1,470	11,693	-1,064	...	13,821	13,265	694,350
2. Investigative Support:																				
Training.....	400	389	24,907	...	...	...	...	...	1	1	...	...	...	...	...	...	...	401	390	24,909
Forensic Services-Federal	319	308	16,378	...	...	...	...	...	...	...	...	...	...	...	...	...	...	319	308	16,265
ADP & Telecommunications	551	537	132,824	...	...	...	...	...	9	9	...	...	...	...	...	...	...	560	546	130,222
Legal Attaches.....	69	67	4,716	...	...	...	...	...	3	3	67	...	...	...	...	...	...	72	70	4,828
Records Management.....	1,287	1,246	37,591	...	...	...	...	...	1	1	-240	...	...	...	...	...	...	1,288	1,247	37,236
Technical Field Support & Equipment.....	189	185	97,331	...	...	...	...	...	-42	-42	-907	...	...	...	...	...	...	147	143	94,192
Subtotal.....	2,815	2,732	313,747	...	...	...	...	...	-28	-28	-1,059	...	...	...	...	...	...	2,787	2,704	307,652
3. State and Local Assistance:																				
Gen. Law Enforcement																				
Training.....	283	275	15,326	...	...	...	...	...	...	...	2	...	...	...	...	...	...	283	275	15,209
Forensic Services - Non-Federal.....	122	119	7,927	...	...	...	...	...	...	...	-1	...	...	...	...	...	...	122	119	7,897
Fingerprint Identification.....	2,583	2,595	79,316	...	...	...	...	...	-10	-10	...	...	...	...	...	...	...	2,573	2,585	78,646
Criminal Justice Data & Statistics Services.....	204	199	7,885	...	...	...	...	...	...	...	...	...	...	...	...	...	...	204	199	7,696
Subtotal.....	3,192	3,188	110,414	...	...	...	...	...	-10	-10	...	...	...	...	...	...	...	3,182	3,178	109,448

Cronwalk of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request			Congressional Appropriation Action on 1985 Request			Reprogramming			1985 Supplementals Requested			1985 Proposed Reconciliation			1985 Appropriation Anticipated		
	Pos.	Wt.	Ant.	Pos.	Wt.	Ant.	Pos.	Wt.	Ant.	Pos.	Wt.	Ant.	Pos.	Wt.	Ant.	Pos.	Wt.	Ant.
4. Program Direction:																		
a. Executive Direction																		
and Control.....	522		25,457	...		-153	4		80	...		...	122		-1,074	526		507
b. Administrative Services..	765		5,677	...		-522	-47		-46	3		1	454		-146	721		702
Subtotal.....	1,287		31,134	...		-675	-43		-92	3		1	576		-1,220	1,247		1,209
Total.....	20,889		1,157,223	...		-10,100	...		...	148		37	1,500		15,270	21,037		20,356

Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Actions

The Joint conference of the House and Senate Appropriations Committee mandated that Standard Level User Charges (SLUC) be reduced. Several object classes associated with the general pricing level uncontrollable item were also reduced to compose the total \$10.1 million reduction by the House and Senate Appropriations Committee.

Reprogramming

These reprogrammings are the result of subobject class dollar transfers, functional transfers between and among programs, and other resource transfers which will provide for more centralized program management.

Supplementals Requested

1. Supplemental funding is requested to provide for the FBI's expanded responsibilities resulting from the enactment of the Comprehensive Crime Control Act of 1984. This request will provide the required personnel and associated costs to enable the FBI to carry out its role as mandated by the Act.
2. The pay request provides \$15,270,000 to meet increased pay requirements and medicare costs (Executive Order 12196 dated December 28, 1984).

Proposed Reconciliation

These reductions result from savings targets specified by Section 2901 of the Deficit Reduction Act of 1984.

**Summary of Requirements**  
**(Dollars in thousands)**

<u>Commitments to base:</u>	<u>Positions</u>	<u>Work- years</u>	<u>Amount</u>
1985 as enacted.....	20,889	20,319	\$1,147,123
Supplemental requested:			
1985 Pay supplemental requested.....	...	...	15,270
1985 Program supplemental requested.....	148	37	1,500
Proposed reclamation.....	...	...	3,595
1985 appropriation anticipated.....	21,037	20,356	1,160,388
Savings resulting from management initiative.....	...	...	-21,518
Uncontrollable increased.....	...	198	53,011
Decreases.....	...	...	-35,781
1986 base.....	21,037	20,554	1,156,100

### 1985 Appropriation

Estimates by Budget Activity	1984 Actual			1985 Appropriation Anticipated			1986 Base			FY 1986 Estimate			Increase/Decrease		
	Perm. Pos.	MY	Amount	Perm. Pos.	MY	Amount	Perm. Pos.	MY	Amount	Perm. Pos.	MY	Amount	Perm. Pos.	MY	Amount
1. Criminal, Security, and Other Investigations....	12,694	12,365	\$597,823	13,821	13,265	\$694,350	13,821	13,458	\$707,178	14,192	13,727	\$741,713	371	269	\$34,535
2. State and local support....	2,730	2,692	255,950	2,787	2,704	307,652	2,787	2,707	293,395	2,787	2,707	293,395	...	...	...
3. Grants and Local Assistance.....	3,275	3,153	88,814	3,182	3,178	109,448	3,182	3,178	104,692	3,182	3,178	104,692	...	...	...
4. Program Direction.....	1,241	1,173	56,534	1,247	1,209	48,938	1,247	1,211	50,845	1,247	1,211	45,874	...	...	...
Total.....	19,940	19,383	999,321	21,037	20,356	1,160,388	21,037	20,554	1,156,100	21,408	20,821	1,185,874	371	269	\$29,564

Summary of Resources by Program  
(Dollars in thousands)

	1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	Work-	Pos.	Perm.	Work-	Pos.	Perm.	Work-	Pos.	Perm.	Work-	Pos.	Perm.	Work-	Pos.
	Amount	Years	Amount	Amount	Years	Amount	Amount	Years	Amount	Amount	Years	Amount	Amount	Years	Amount
<b>Estimates by Program</b>															
<b>Criminal, Security, and</b>															
<b>Other Investigations:</b>															
Other Field Programs.....	7,471	7,248	\$364,110	7,395	7,212	\$362,427	7,882	7,606	\$399,563	7,882	7,672	\$405,561	8,253	7,941	\$440,096
Organized Crime.....	2,204	2,146	102,398	2,777	2,713	125,809	2,557	2,452	120,936	2,557	2,491	122,732	2,557	2,491	122,732
White-Collar Crime.....	3,014	2,921	140,189	2,522	2,440	109,587	2,936	2,764	139,187	2,936	2,849	144,457	2,936	2,849	144,457
OCDE.....							446	443	34,664	446	446	34,428	446	446	34,428
Subtotal.....	12,689	12,315	606,697	12,694	12,365	597,823	13,821	13,265	694,350	13,821	13,458	707,178	14,192	13,727	741,713
<b>Investigative Support:</b>															
Training.....	401	390	22,700	405	402	25,259	401	390	24,909	401	390	35,516	401	390	35,516
Forensic Services-Federal	319	308	15,725	319	281	14,451	319	308	16,265	319	308	16,417	319	308	16,417
ADP & Telecommunications	506	490	95,990	506	495	72,782	560	546	130,222	560	548	137,597	560	548	137,597
Legal Attaches.....	70	68	4,628	70	68	4,615	72	70	4,828	72	70	5,165	72	70	5,165
Records Management.....	1,292	1,251	36,580	1,292	1,341	34,784	1,288	1,247	37,236	1,288	1,247	37,005	1,288	1,247	37,005
Technical Field Support															
& Equipment.....	138	133	96,345	138	105	103,959	147	143	94,192	147	144	60,885	147	144	60,885
Subtotal.....	2,726	2,640	271,968	2,730	2,632	255,850	2,787	2,704	307,652	2,787	2,707	293,385	2,787	2,707	293,385

Federal Bureau of Investigation  
Summary of Resources by Program  
(Dollars in thousands)

	1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease
	Perm.	Work-	Amount	Perm.	Work-	Amount	Perm.	Work-	Amount	Perm.	Work-	Amount	
Estimates by Program	Pon.	Years		Pon.	Years		Pon.	Years		Pon.	Years		
State and Local Assistance:													
Gen. Law Enforcement Trng.	283	275	\$14,766	274	251	\$13,537	283	275	\$15,209	283	275	\$16,134	...
Forensic Serv.-Non-Federal	122	119	7,573	122	119	7,108	122	119	7,897	122	119	7,916	...
Fingerprint Ident.....	2,675	2,685	196,994	2,675	2,579	62,808	2,573	2,585	78,646	2,573	2,585	72,746	...
Criminal Justice Data and													...
Statistical Services.....	204	199	7,473	204	185	5,361	204	199	7,696	204	199	7,896	...
Subtotal.....	3,284	3,278	136,806	3,275	3,153	88,814	3,182	3,178	109,448	3,182	3,178	104,692	...
Program Direction:													...
Executive Direction and													...
Control.....	525	506	24,790	525	499	27,362	526	507	24,432	526	507	25,934	...
Administrative Services...	716	699	23,575	716	674	29,472	721	702	24,506	721	704	24,911	...
Subtotal.....	1,241	1,205	48,365	1,241	1,173	56,834	1,247	1,209	48,938	1,247	1,211	50,845	...
Total.....	19,940	19,438	1,063,936	19,940	19,383	999,321	21,037	20,356	1,160,388	21,037	20,554	1,156,100	21,408 20,823 1,185,664 371 269 29,564

Federal Bureau of Investigation

Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity: Criminal, Security, and Other Investigations	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Perm. Pos.	NY Amount	Ferm. Pos.	NY Amount	Ferm. Pos.	NY Amount	Ferm. Pos.	NY Amount	Ferm. Pos.	NY Amount	Ferm. Pos.	
Other Field.....	7,882	7,606	\$399,563	7,882	7,672	\$405,561	8,253	7,941	\$440,096	371	269	\$34,535
Organized Crime.....	2,557	2,452	120,936	2,557	2,491	122,732	2,557	2,491	122,732	...	...	...
White-Collar Crime.....	2,936	2,764	139,187	2,936	2,849	144,457	2,936	2,849	144,457	...	...	...
CCDE.....	446	443	34,664	446	446	34,428	446	446	34,428	...	...	...
Total.....	13,821	13,265	694,350	13,821	13,458	707,178	14,192	13,727	741,713	371	269	\$34,535

This budget activity includes resources for managing and coordinating field investigations and resources for all field investigative operations for the Federal Bureau of Investigation. The operations are conducted out of 59 field offices and more than 400 resident agencies located throughout the United States and Puerto Rico. Field offices are responsible for all investigations including the national priority law enforcement areas of organized crime, white-collar crime, foreign counterintelligence and terrorism.

Activity: Criminal, Security, and Other Investigations	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Perm. Pos.	NY Amount	Ferm. Pos.	NY Amount	Ferm. Pos.	NY Amount	Ferm. Pos.	NY Amount	Ferm. Pos.	NY Amount	Ferm. Pos.	
Other Field Programs.....	7,882	7,606	\$399,563	7,882	7,672	\$405,561	8,253	7,941	\$440,096	371	269	\$34,535

Long-Range Goal: To reduce the incidence of various general criminal activities; to conduct appropriate applicant, civil rights, and fugitive investigations as directed by law and the Attorney General; and to counter within the United States the hostile operations of foreign intelligence officers, agents, and terrorism.

Major Objectives:

To identify, penetrate, and neutralize intelligence operations and activities inimical to the United States.



To conduct thorough background investigations on a timely basis for the White House, the Department of Justice, certain Congressional committees, and other Federal agencies.

To recruit, process, investigate, and appoint the most qualified individuals to meet the staffing needs of the FBI.

To investigate alleged violations of the various civil rights laws, both those which are self-initiated and those at the request of the Civil Rights Division of the Department of Justice.

To investigate threats and assaults against, and kidnappings and assassinations of, the President, Vice-President, Executive department heads, Members of Congress, Justices of the Supreme Court, other designated Government officials, and Federal law officers, and to investigate kidnappings; extortions; crimes aboard aircraft; tampering of consumer products; theft of controlled substances; and other personal crimes under FBI jurisdiction.

To locate and apprehend local and state fugitives charged under the Fugitive Felon Act with unlawful flight to avoid prosecution for violent personal crimes, substantial property theft, and narcotic violations; major Federal narcotics offenders sought by DEA; United States military personnel who desert under aggravated circumstances; and to assist local and foreign police agencies in criminal investigations.

To achieve the maximum bank robbery solution rate and most effective prosecutive results possible by providing an immediate investigative response to reported violations and, thereafter, conduct logical investigation to identify, locate, and apprehend individuals responsible for these crimes.

To identify, investigate, and develop cases for prosecution against individuals and organized gangs involved in thefts from interstate shipments, interstate transportation of stolen property, motor vehicle theft rings, other Federal property crimes, and the fencing of stolen goods.

To investigate serious personal and major property crimes committed on Indian reservations, in Federal correctional institutions, and on United States Government installations; theft of United States property, funds, weapons, and explosives from Federal buildings, installations, and supply depots; and Selective Service Act matters.

To recruit, direct, and maintain a network of criminal informants and sources capable of obtaining intelligence information on past, current, and proposed criminal acts within FBI investigative jurisdiction and capable of aiding the FBI in locating and apprehending persons charged under Federal statutes.

To plan, implement, and direct short-term and long-term undercover operations involving individuals and criminal groups responsible for major property crimes, theft of United States Government property, and the transportation of stolen goods.

To develop an analytic and managerial capability to identify and respond to crime problems and trends at the local and national levels; determine resource needs for these programs within individual field offices; and assist in the strategic allocation of appropriated resources.

To provide Headquarters-level support of field office investigative efforts; develop and implement investigative and administrative policy; review and act upon field office undercover, aircraft, and special operation group requests; provide Headquarters-level coordination and support of major investigations; establish and maintain liaison with other Federal agencies, industry and professional associations, citizen groups, and others; continue to expand FBI participation in INNSHOU; and to identify and conduct appropriate in-service and related training for agents and support personnel involved in program-related investigations.

To provide aircraft support for FBI investigations and operations; to provide maintenance service for FBI-owned aircraft; and to provide training and certification for agent pilots and co-pilots.

To provide overall management of the FBI's Witness Security Program, criminal informant program, and off-site special operations/surveillance groups.

To prevent terrorist acts and to locate, identify, and arrest persons advocating terrorism or committing or supporting terrorist acts.

Base Program Description: This is the largest investigative program in this budget activity. The program consists of a myriad of diverse investigative activities, including civil rights matters, applicant matters, state and local fugitive matters, personal crimes, property crimes, foreign counterintelligence matters, crimes on Indian reservations, thefts of Government property, and terrorism matters.

The FBI receives notification of criminal violations from victims, other law enforcement agencies, confidential sources, and concerned citizens. The complaints, either written or oral, are assigned to special agents in the appropriate FBI field office. Some are immediately presented to a United States Attorney for prosecutive opinion. Others are investigated to a point of gathering necessary facts before presentation to a United States Attorney. Still others are investigated and the results of the investigation are reported to the Department of Justice pending further investigative or prosecutive determination. Those matters not prosecuted by the United States Attorney are referred to state and local law enforcement agencies where appropriate. Investigations are conducted primarily through interviews of victims, witnesses, and suspects by FBI special agents. Additional analytic and technical expertise are provided by staffs of the various investigative support units at FBI Headquarters.

Investigation of alleged violations of the civil rights laws are initiated upon receipt of instructions from the Department of Justice or self-initiated upon receipt of complaints from any source not known to be unreliable. These matters are expeditiously and thoroughly investigated to determine facts which will refute or substantiate the allegations. The scope of these investigations often includes, but is not limited to, reviewing and photographing voluminous records and locating and interviewing many witnesses, victims, and subjects. This sometimes necessitates the utilization of resources in several field divisions. Close coordination is essential at both the field and Headquarters levels to insure all facets of the investigation are explored and resolved preparatory to initiation of prosecution.

Applicant matters are referred to the FBI by The White House, the Congress, the Department of Justice, and other Federal agencies. These matters are assigned to special agents for investigation usually on an expedite basis. Reports are prepared stating the facts developed and the comments of interviewees, and are forwarded to the requesting agency for decision.

Direct investigative efforts are undertaken to determine an individual's suitability for Federal employment. These include, but are not necessarily limited to, interview with neighbors, supervisors, coworkers, professional associates, and social acquaintances, in addition to review of educational, credit, military, employment, and law enforcement records. Information in developed concerning an individual's character, reputation, associates, loyalty, and in some instances, qualifications and ability. Investigative results are forwarded to the requesting entity where a determination is made concerning employment.

The FBI is directly involved at the street-level in attacking the incidence of violent personal and property crimes through its four General Crimes Investigative programs. This involvement includes both investigating crimes that fall under Federal jurisdiction and assisting state and local law enforcement agencies in locating and apprehending dangerous criminals sought for serious crimes. These four programs--Fugitive, General Government Crimes, General Property Crimes, and Personal Crimes--provide the primary Federal law enforcement response to crimes directed against designated Federal officials, committed on or against United States property, or where a Federal interest has been recognized by enactment of Federal statute.

Through the Fugitive Program the FBI assists state and local law enforcement agencies in apprehending felons who cross state boundaries to avoid arrest, prosecution, or confinement. Typically, these fugitives are wanted for such crimes as murder, armed robbery, aggravated assault, rape, and narcotic offenses. Additionally, abduction of children by natural parents in defiance of custody decrees are investigated. Efforts are also made to locate and apprehend Class I and II narcotic law violators sought by the Drug Enforcement Administration and other fugitives in cooperation with other Federal agencies. Assistance is also provided to the United States armed forces in locating military personnel who desert under aggravated circumstances and to local and foreign police agencies conducting criminal investigations.

General Government Crimes Program investigations are directed toward solving serious personal and major property crimes committed on Indian reservations and United States property, which include approximately 430 major Department of Defense installations, numerous civilian agency buildings and sites, national parks and recreational areas, approximately 125 Indian reservations, and more than 40 Federal penitentiaries and correctional facilities. Also investigated under this program are matters referred to the Department of Justice by the Selective Service System (SSS) involving individuals who are suspected of failing to register with SSS as required by law; individuals impersonating Federal officials; false identification matters within FBI jurisdiction; and other crimes affecting the Government.

General Property Crimes Program investigations focus on thefts from interstate shipments, the interstate transportation of stolen goods and motor vehicles, individuals and groups engaged in such activities, and fences dealing in stolen goods. Investigations of such individuals and groups often uncover links between property crimes, fences, organized crime, and narcotic trafficking. Other programs investigated include crimes on the High Seas and destruction of Aircraft or Motor Vehicle matters. To complement investigations of reported incidents of property crimes, the FBI also employs the use of undercover operations to identify and penetrate theft rings and fencing activities and obtain intelligence information and evidence against criminals who have been able to insulate themselves against direct lines of complicity in illegal activities.

The Personal Crimes Program addresses a group of offenses involving the common characterization of threatened or actual injury or loss of life. These offenses include threats, assaults, kidnappings, and the assassination of the President, Vice President, Executive department heads, Supreme Court Justices, Members of Congress, other designated Federal officials, and Federal law officers; bank

robberies; kidnappings; extortion; and aircraft hijacking and other crimes aboard aircraft. Program investigative responsibilities were recently expanded with the enactment of the Federal Anti-Tampering Act and the Controlled Substance Registant Protection Act of 1984. The Federal Anti-Tampering Act prohibits the actual or threatened contamination or adulteration of consumer products, while the Controlled Substance Registant Protection Act of 1984 established Federal jurisdiction over certain thefts of controlled substances from manufacturers, distributors, practitioners, or retail outlets.

Cases are presented to the U.S. Attorney, where they are either accepted for prosecution or declined, depending upon the policies and guidelines of the U.S. Attorney and the quality and strength of the investigation. Declined cases can be cloned by the FBI field office if all logical investigation is completed. Accepted cases are prepared for prosecution and further investigation is conducted as necessary. Arrest warrants are executed when approved. Prosecutive support is provided in terms of case preparation and court testimony. Upon conclusion of judicial proceedings against all subjects, cases are cloned.

#### Accomplishment and Workload:

#### Civil Rights, Applicant and Other Investigations

Item	1983	1984	Estimates	
			1985	1986
<u>Investigative Matters Received</u>				
Reimbursable Applicant.....	13,680	17,329	18,000	18,000
Nonreimbursable Applicant.....	61,104	75,693	76,000	76,000
Other Investigations.....	7,920	7,909	8,000	8,000
Civil Rights.....	8,137	8,397	9,000	9,000
Total Investigative Matters Received.....	90,841	109,328	111,000	111,000
<u>Investigative Matters Completed</u>				
Reimbursable Applicant.....	12,673	17,599	18,000	18,000
Nonreimbursable Applicant.....	61,191	74,918	76,000	76,000
Other Investigations.....	8,019	6,655	8,000	8,000
Civil Rights.....	8,115	8,332	9,000	9,000
Total Investigative Matters Completed.....	89,988	107,504	111,000	111,000
<u>General Crimes</u>				
Origin Investigative Matters Pending From Previous Year.....	21,233	19,341	19,824	21,037
Origin Investigative Matters Received During Year.....	36,872	35,613	38,492	39,242
Total Origin Investigative Matters.....	58,105	54,954	58,316	60,279
Complaints Filed.....	3,611	3,604	3,614	3,738
Information Filed.....	3,625	3,525	526	544
Indictments Returned.....	4,325	4,074	4,085	4,225

Item	Estimates	
	1985	1986
Subjects Arrested.....	3,537	3,559
Subjects Located.....	1,035	1,071
Recoveries (\$000).....	---	---
Potential Economic Losses Prevented (\$000).....	---	---
Undercover Operations -		
Group I.....	21	29
Group II.....	83	70
Informant Matters Pending (as of September 30).....	2,271	2,278
Federal Convictions.....	4,562	4,381
Fines Levied in Federal Courts (\$000).....	\$1,597	\$3,033
Local Convictions.....	976	905
Fines Levied in Local Courts (\$000).....	\$379	\$604
Origin Investigative Matters Completed.....	38,764	35,130
	37,279	39,094

Program Charges: Increases of 371 positions and \$34,535,000 are requested for 1986 for Other Field Programs. These increases will enable the FBI to meet its mandated responsibilities and objectives in all critical areas. Detailed information regarding this program can be obtained from the "Special Analysis of Field Program Exhibit."

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	NY Amount	Perm.	NY Amount	Perm.	NY Amount	Perm.	NY Amount
Organized Crime.....	2,557	2,452	2,557	2,491	2,557	2,491	---	---

Long-Range Goal: To reduce the incidence of organized criminal activity in American society through investigation on a systematic, coordinated, and sustained basis.

#### Major Objectives:

- To conduct responsive and effective investigations against organized criminal activity on a nationwide basis.
- To obtain, through the utilization of established legal procedures, prosecution and conviction of members and associates of traditional and non-traditional organized crime groups.

To maintain a copy of high-quality information and develop additional information to penetrate the leadership, structure, operations, associations, and revenue sources of the organized crime group operating in this country.

To continue implementation and maintenance of the Organized Crime Information System (OCIS) in selected field locations.

To develop the capability of tracing complex associations through the collation of up-to-date investigative information and make that information readily available to all investigative personnel.

To provide assistance to other Federal, State, and local law enforcement agencies relative to organized crime investigations.

To develop the capability of identifying trends and making projections of organized crime activities on a local or national basis.

To provide assistance to cooperating witnesses prior to their entry into the Witness Security Program.

To provide resources necessary for the FBI to assume the functions required under the forfeiture provisions of Title 21, United States Code.

Through the cooperation of other Federal agencies, identify, investigate, and arrest individuals who organize, direct, and finance high-level illegal drug trafficking enterprises, making full use of financial investigative techniques and forfeiture actions, thereby enabling the Government to seize assets and profits derived from drug trafficking.

Through the cooperation of other Federal agencies and foreign law enforcement agencies, identify, investigate, and arrest individuals who organize, direct, and finance high-level international illegal drug trafficking enterprises, making full use of financial investigative techniques and forfeiture actions as they relate to United States organized crime figures, thereby enabling the Government to seize assets and profits derived from drug trafficking.

To provide resources necessary for the FBI to identify, investigate, and arrest individuals who are involved in the systematic corruption of various labor unions.

Basic Program Description. This division unit addresses the problem of organized crime in the United States. Organized crime is defined as any group having some type of formalized structure whose primary objective is to obtain money through the use of violence or threat of violence, corrupt public officials, graft, and extortion, and which has a significant adverse effect on the people in its locale or region or the country as a whole. Organized crime groups affect the social and financial framework of American society in such areas as labor racketeering, corruption of public officials, illegal infiltration of legitimate business, loansharking, illegal gambling, arson-for-profit, narcotics, pornography, and gangland slaying. There are few business or industrial sectors in our society that are not affected today by organized criminal enterprises, either through exploitation or through penetration. Organized criminal enterprises do not face the problem of legitimate businesses and are not concerned with overhead, availability of capital, or profit margins. Instead, they thrive through the use of intimidation, extortion, fear, and corruption of public officials. While accurate data are not available on the extent of dollars, individuals, or organizations involved in organized criminal activities, experience indicates that it is substantial.

It has been determined through the use of intelligence, development of witnesses, and court-ordered electronic surveillance that many labor unions in the country are substantially controlled by organized crime. Organized crime's dominance of these unions in a criminal problem that must be addressed by the FBI which in the agency charged with investigating organized crime's illegal activities. The corruption of labor unions has been ongoing for many years. Almost from the beginning of trade union activity within the United States, organized crime has sought to infiltrate and dominate certain unions. From organized crime's domination of the union it has been able to use the union for labor racketeering purposes, i.e., the use of union power for personal benefit. Strong investigative effort against organized crime-infiltrated unions at this time will graphically depict the FBI's commitment to investigating and eradicating organized crime from the American labor movement.

Title V of Public Law 91-452 (Organized Crime Control Act of 1970) authorized the Attorney General to provide for the security of Government witnesses and potential witnesses whose life or person is placed in jeopardy by virtue of being a witness or intended witness in legal proceedings against any person alleged to have participated in an organized criminal activity. Under this law, the Department of Justice designated the United States Marshall Service as the sole authority to arrange for the maintenance of persons designated protected witnesses. Since then, with the creation of the Office of Enforcement Operations to administer the Witness Security Program, new policies and procedures expanded the responsibility of investigative agencies which sponsored individuals for inclusion in the Witness Security Program. This change, in effect, required the sponsoring agency to extend resources relative to the protection of the witness and/or his/her immediate family prior to the assumption of the protection of the witness by the United States Marshall Service.

Pursuant to the Attorney General's Directive of January 28, 1982, which delegated to the FBI concurrent jurisdiction with the Drug Enforcement Administration relative to the investigation of violation of the Controlled Substances Act (Title 21, United States Code), the FBI has dedicated significant resources to the investigation of narcotic violations. Illicit drug traffic represents an ever-increasing threat to American society, its institutions, and citizens. The Attorney General has identified drug trafficking as the number one crime problem in the United States. Illicit drug and narcotic profits have a devastating effect on society and the Nation's economy. The enormous profits available entailing drug trafficking an attractive criminal activity to organized crime, both traditional and nontraditional. Narcotic trafficking and its resultant effects create an atmosphere that breeds violence and affects citizens at all levels of the socio-economic spectrum. Receipt of this concurrent jurisdiction required prompt action by the FBI to insure appropriate policies and procedures were implemented and understood by all investigative personnel. The FBI is also directing intensive investigative efforts toward the narcotic activities of international narcotic traffickers. These types of investigations are very complex and sensitive, and require close supervision at FBI Headquarters. Critical to the success of these investigations is the effective use of informants and the ability to purchase evidence when required.

Accomplishments and Workload: Accomplishments of the Organized Crime Program are presented in the following table:

Item	Fiscal Year	
	1983	1984
Investigative matters received.....	23,197	23,347
Investigative matters carried over.....	7,383	23,500
Total Investigative matters.....	30,580	23,650

Item	Estimates		
	1983	1984	1985
Investigative matters alone.....	22,112	22,700	23,310
Organized Crime Informants matters.....	2,374	2,980	3,000
Convictions.....	1,261	1,484	1,410
Indictments.....	1,999	1,827	1,865
Complaints.....	614	580	635
Information.....	119	327	300
Field location OGIS implementation.....	35	44	50

Information on the total effect of organized crime on society and the FBI's full impact on organized crime, although considered significant, is not readily obtainable at this time. Statistics are available on the number of arrests, convictions, and dollars recovered through FBI investigation, but these statistics are of little use without some overall assessment against which they can be evaluated. The full development and implementation of Organized Crime Information System (OCIS) will enhance the FBI's ability to measure the influence of organized crime on society, as well as aid the FBI in measuring the effect of the its investigations on organized crime. OCIS is designed to complement the major organized crime program, and particular emphasis has been placed upon link analysis of relationships among members of organized crime and corrupt organizations, union officials, business leaders, and public officials. OCIS is very useful in the FBI's expanding investigation of outlaw motorcycle gangs and narcotics activity. The FBI's ability to access and analyze these interrelationships among narcotics activity and organized crime groups will increase as the OCIS data base expands and the system develops when the appropriate offices are brought on-line.

The following are examples of instances where OCIS has assisted in trial preparation, case development, affidavit or complaint assistance for search or arrest warrants, external law enforcement agency requests, lead coverage, and reducing file review time, etc.: For contacts in a major organized crime case, pertinent by time, date, place, amount, person involved, etc., were given the case agent and the prosecuting Strike Force Attorney. The OCIS staff was personally commended by the Strike Force prosecuting attorney for invaluable aid in preparing exhibits and opening remarks to the jury.

Of particular significance was a special project conducted by the Organized Crime Information Analysts (OCIA) for the New York Office regarding the convicted head of an organized crime "family." In anticipation of this individual's sentencing, the New York Office had been requested, under a short deadline, to develop an extensive amount of data on this individual and his underlings. The work of the OCIA was of immeasurable assistance in capturing information of the criminal manipulation of this "family" by this individual.

The Royal Canadian Mounted Police (RCMP) requested assistance on a surveillance regarding an alleged organized crime associate. OCIS query immediately identified the organized crime associate and enabled the Detroit Office to provide pertinent information to the RCMP, noting the source of all of the information was the Buffalo Office.



The Las Vegas Office had been the recipient of several anonymous letters identifying the individuals in the Las Vegas area involved in rhyolite and bookmaking operations. In addition, these individuals are allegedly connected to organized crime figures from the Chicago area. Through OGIS, this information has been evaluated and is very accurate as to the relationship between the Las Vegas and Chicago individuals. This type of review conducted prior to the OGIS system would have involved numerous hours of file review as well as communication between the two offices. This process has been eliminated through the use of OGIS in this case.

The FBI cooperates closely with other Federal, state, and local agencies, particularly in the investigation of narcotics. During 1984, intelligence information concerning organized crime activity was disseminated to state and local law enforcement agencies on a regular basis by the FBI and led to the conviction of 387 individuals and \$446,020 in fines.

During 1984, organized crime investigations resulted in the Federal conviction of 1,484 individuals and the indictment of 1,827 individuals. Included in these convictions and indictments are a significant number of traditional organized crime members and associates, nontraditional organized crime members and associates, union members, and public officials.

On February 3, 1984, a Tampa Federal grand jury indicted 36 persons in a twenty-count indictment charging Racketeering Influenced Corrupt Organization (RICO), bribery, extortion, illegal transportation in Aid of Racketeering (ITAR) and narcotics violations. This investigation involved narcotics trafficking and payoffs by an organized crime-controlled narcotics ring to the First Assistant State's Attorney for Hillsborough County (Tampa), Florida. Among those indicted were Salvatore Lorenzo, an organized crime "family" member, and Norman Camella, who was the First Assistant State's Attorney (Tampa) in charge of criminal prosecutions at the time these bribes were being accepted. In October 1984, seven subjects pled guilty while 13 others were found guilty after trial.

On March 30, 1984, William Prastler, the Vice-President of the Palmetto, West Virginia, Chapter of the Pagano Motorcycle Gang, was convicted of 22 counts of various possession and sale of narcotics charges. In addition, two members and one associate of this outlaw motorcycle gang were convicted of various counts related to Title 21 violations, and one member and two associates pled guilty to various counts related to Title 21 violations. This investigation involved the use of cloned circuit television and commercial monitoring to record narcotics purchases from members of the Pagano Motorcycle Gang by an FBI informant.

On April 3, 1984, a member of the Chicago organized crime "family" and an associate of this family were convicted for Obstruction of Justice (OOJ) and conspiracy in connection with a Hobbs Act-Extortion case against their "street boss." These individuals threatened a Federal grand jury witness with injury and/or death if he testified against the subjects of the investigation. Evidence against these two individuals was obtained through the use of Title III electronic surveillance coverage.

On April 5, 1984, Joseph Sherman, President; John Rothblatt, Secretary-Treasurer; and Stephen Molnar, Local 95, Laborers International Union of North America (LIUNA), AFL-CIO (House Wreckers) were indicted on two counts of the Hobbs Act. This investigation involved an extortion payment to insure labor peace in connection with a Federally funded demolition job. Historically, Local 95, LIUNA has been linked to organized crime families.

On April 9, 1984, the boss of the Milwaukee organized crime "family", Frank Balintieri, and his two sons, Joseph and John, who are both attorneys, were convicted for violation of Hobbs Act-Extortion. This investigation involved the life-threatening extortion of an FBI undercover agent by Balintieri. This undercover agent was introduced to Balintieri at a vending machine representative. The extortion was the FBI's first response to the undercover agent's attempt to intrude into the Milwaukee vending machine business without prior FBI approval.

On April 13, 1984, indictments were returned charging Monte Carl Luttrell, a confirmed member of the Hellin Angels Outlaw Motorcycle Gang, and 13 associates of this gang with various narcotics-related Title 21 violations, firearms violations and intimidation of a witness. These indictments stemmed from a series of federal search warrants served at several Hellin Angels-related locations within the Sacramento and San Francisco areas. These searches resulted in the seizure of numerous weapons and an operating methamphetamine laboratory.

On May 3, 1984, an 86-count superseding indictment was returned by a Federal grand jury charging 15 present and former Philadelphia police officers with Hobbs Act-Extortion for protection of illegal lotteries and obstruction of justice violations. On August 10, 1984, former Philadelphia Police Department Deputy Commissioner James J. Martin and former Philadelphia Police Department Chief Inspector Joseph Depari were convicted on all counts of violations of the HICO and Hobbs Act Statutes. Previous convictions have included the Inspector in Charge of Center City Philadelphia and members of his vice squad. This investigation was directed at Philadelphia police officers who were engaged in the extortion of vendors, tavern and other business owners, operating video electronic gambling devices.

On May 18, 1984, Joseph Speciale, Gus Gallo, and Joseph Rigg, pled guilty to violation of Title 18, United States Code, Section 1955; on May 15, 1984, John Gagnon pled guilty to perjury; and on May 22, 1984, Joseph Covello, a member of an organized crime family, pled guilty to violation of Title 18, United States Code, Section 1084. On May 22, 1984, Covello was sentenced to one year custody of the Attorney General and fined \$10,000. Gallo was sentenced to one year custody of the Attorney General, and Speciale was sentenced to two years custody of the Attorney General. This Gambling/Extortionate Credit Transaction investigation involved one of the largest loansharking operations in the Las Vegas, Nevada, area, which is considered to have a great deal of influence with organized crime members living in Las Vegas. This investigation was afforded Title III EASIR coverage during 1981 and 1982 with successful results.

On May 21, 1984, Augustine Venditti, Vice-President and Business Agent, and Joseph Granaf, Secretary-Treasurer (retired), Local 929, IFT, pled guilty to two counts of Racket-Hartley violations. In addition, on May 25, 1984, Maurice Schurr, President of Local 929 and the 13th International Vice-President of the IFT, was convicted on one count of conspiracy to receive illegal payments from employers and one count of demanding and accepting monies from employers. Harry Rostok, Business Agent, Local 929, was also found guilty on one count of conspiracy and on six counts of demanding and accepting monies from employers.

On June 28, 1984, a Federal grand jury returned two indictments charging 22 individuals, including Raymond Casanavor, Jr., Deputy Chief of Police, Key West Police Department (KMPD), Key West, Florida, two KMPD detectives, an attorney and several significant narcotics dealers. The first indictment charges 13 individuals with racketeering, conspiracy, bribery, and related narcotics offenses. The second indictment charges nine others with conspiracy to possess and distribute large quantities of cocaine and paying bribes to officers of the KMPD for protection of their illicit business. This matter has been jointly investigated by the Florida Department of Law Enforcement and addresses allegations of police corruption and large-scale narcotics smuggling in the Key West, Florida, area.

On July 7, 1984, Catherine Stubblefield Wilson, a mail-order distributor of hardcore pornography, was sentenced to ten years custody of the Attorney General, three years probation and a \$10,000 fine. This sentence is the result of the June 29, 1984, conviction of Wilson for 15 counts of violating the Mailing of Obscene Material and Sexual Exploitation of Children Statutes. This investigation was a joint Los Angeles Police Department, Postal Inspection Service, and FBI effort.

On September 4, 1984, Carl James Civella, acting organized crime boss, and his son Anthony Thomas Civella, were sentenced following their guilty pleas for being part of a criminal enterprise operating in the Kansas City area that was responsible for skimming from Las Vegas casinos and attempted murder.

On September 26, 1984, Angelo Farrugia, nephew of the Bonanno organized crime "family" underboss and owner of the Bonanza Trucking, Co., New York, New York, was found guilty on two counts of an indictment which charged him with various violations including Making False Declaration to a DOJ, Obstruction of Justice, Filing False Corporate Tax Return, and Criminal Tax Evasion. This investigation centers on organized crime control of the air freight industry at JFK International Airport through the manipulation of several labor unions and businesses.

On October 23, 1984, the top leadership of the Colombo organized crime "family" was indicted on evidence developed utilizing Title III and undercover techniques. Eleven individuals were named in a RICO indictment charging predication of Interstate Transportation of Stolen Property, Mail Fraud, BOP, Obstruction of Justice, and Labor Racketeering. The indictment charges the defendants with participation in an illegal enterprise for the purpose of obtaining money through control and domination of various labor unions, theft and sale of goods from interstate and foreign commerce, loansharking, sale of narcotics, and illegal gambling.

On November 27, 1984, Michael J. Matthews, former Mayor of Atlantic City, New Jersey, pled guilty to one count of a five-count Hobbs Act indictment. This indictment charged Matthews received \$11,000 in three separate bribes for influencing the Atlantic City, New Jersey, Zoning Board. On September 18, 1984, Thomas H. Russo, former Director of Planning and Development, Atlantic City, New Jersey, and organized crime figure Philip Leonetti were charged with violations of the Hobbs Act. In addition, on October 29, 1984, Frank Lentino, organizer, Hotel and Restaurant Workers Union, Local 54, pled guilty to Hobbs Act charges.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount
Organized Crime Drug Enforcement...	446	443	\$34,664	446	446	\$34,428	446	446	\$34,428	...	...	...
Long-Range Goal: To identify, investigate, and prosecute members of high-level drug trafficking enterprises and to destroy the operation of those organizations.												

Major Objectives:

To target, investigate, and prosecute individuals who organize, direct, finance, or are otherwise engaged in high-level illegal drug trafficking enterprises and to severely disrupt the organizational base of these traffickers, including large-scale money laundering organizations.

To promote a coordinated drug enforcement effort in each Task Force area and to encourage maximum cooperation among all drug enforcement agencies.

To work fully and effectively with state and local drug enforcement agencies.

To make full use of financial investigative techniques, including tax-law enforcement and forfeiture actions, in order to identify and convict high-level traffickers and to enable the Government to seize assets and profits derived from high-level drug trafficking.

Bare Program Description. The investigative jurisdiction of the FBI in narcotics matters is based on Attorney General Order Number 988-82, dated January 28, 1982. The Order authorizes the Director of the FBI, concurrently with the Administrator of the Drug Enforcement Administration (DEA), to investigate violations of the criminal drug laws of the United States. These violations are detailed in the Comprehensive Drug Abuse Prevention and Control Act of 1970, also referred to as the Controlled Substances Act (Title 21, United States Code (USC), Section 801, et seq.). Executive Order 12368 was signed by the President on June 29, 1982, and announced the formulation of policy regarding the coordination and oversight of international and domestic drug abuse. Subsequently, on October 14, 1982, the President directed that twelve task forces be formed to coordinate a nationwide initiative by Federal, state, and local law enforcement agencies targeting major drug traffickers, organized crime figures, and others involved in illicit narcotics activity. In addition, funding for 1985 allowed for the creation of a thirteenth task force to operate in south Florida.

It is estimated by governmental agencies that as many as 41 million people in the United States spend approximately 80 billion dollars annually on heroin, cocaine, marijuana, and hashish. Illicit narcotics activities are a source of large profits for organized crime and other major traffickers and are often converted into other enterprises fostering a cycle of criminal activities, political and police corruption, and a heavy financial burden on every U.S. citizen. In addition, law enforcement statistical data reveal that a large percentage of violent personal crimes are related to narcotics activities.

La Cosa Nostra narcotics trafficking, drug trafficking by outlaw motorcycle gangs, documented significant traffickers in specific geographic areas, complex financial/money laundering schemes in connection with a narcotics operation, and police corruption investigations that surface during narcotics investigations are the primary targets of the FBI and the resources of this decision unit.

In 1983, the FBI received an allocation of 334 special agent positions for Organized Crime Drug Enforcement Task Force matters. This number was in addition to the FBI's previous resource commitments to narcotics investigations. As of November 5, 1984, the FBI was involved in more than 400 Task Force cases and in expending more than 553 agent workyears in this effort. The FBI's commitment to this program reflects the priority given the Task Force by the President and the Attorney General. The FBI's experience in Task Force cases indicates these investigations are resource intensive, using court-ordered electronic surveillance, long-term undercover operations, and physical surveillance. The significance of the coordinated law enforcement effort directed against organized criminal groups involved in drug trafficking cannot be overstated. This program involves the majority of the most significant drug investigations currently active at the Federal level.

Accomplishments and Workload: Accomplishments of Organized Crime Drug Enforcement Task Force cases are presented in the following table:

Item	Estimates	
	1983	1984
Pending Cases - 9/30.....	278	452
Court Approved Wire Communications Intercepts.....	56	279
		465
		225

Item	Estimates		
	1983	1984	1985
OCDE Arrests.....	300	862	880
OCDE Convictions.....	70	710	715
OCDE Indictments.....	406	1,291	1,300
OCDE Complaints.....	165	492	495
OCDE Informations.....	13	81	85

During 1983, Organized Crime Drug Enforcement Task Force investigations resulted in the conviction of 70 individuals and the indictment of 406 individuals. During 1984, these same types of investigations have resulted in the conviction of 710 individuals and the indictment of 1,291 individuals.

The cases mentioned below are typical examples of cases currently being worked by the Organized Crime Drug Enforcement Task Forces throughout the United States.

On January 9, 1984, 14 Federal search warrants were executed by FBI, DEA, Internal Revenue Service (IRS), and United States Customs Agents. Two of the search warrants which were executed at Las Vegas, Nevada, resulted in the seizure of \$16,000, pertinent records, and one vehicle. One search warrant, which was executed in Miami, Florida, located records of Steven Hunt Grabow's substantial investment in precious metals purchased with proceeds from illicit drug trafficking. The remaining 12 search warrants which were executed in the Aspen, Colorado, area resulted in the seizure of \$1.5 million, eight vehicles, a boat, and numerous records related to narcotics transactions. On November 28, 1984, a Federal Grand Jury (FJ), Denver, Colorado, returned an indictment charging Grabow and seven others with narcotics violations.

On January 19, 1984, indictments were returned in various districts in the United States charging approximately 52 individuals with a variety of violations of Titles 18 and 21, United States Code. This case was jointly investigated by the FBI and DEA and as a result of Title III surveillance and informant information, large shipments of cocaine were seized at various locations in the United States. To date, a total of 11,000 pounds of cocaine has been seized. On October 26, 1984, Harold Joseph Ronenthal, the leader of this drug ring, and Phillip Anthony Bonadonna, a member of the Genovese organized crime family, along with six co-defendants were convicted of violating the Racketeer Influenced and Corrupt Organization Statute (RICO). On November 26, 1984, Ronenthal and Bonadonna were sentenced to substantial prison terms.

Through undercover buys and Title III surveillance, a joint FBI/DEA investigation involving the Philadelphia and New York Offices has obtained evidence against some leaders of the Sicilian heroin smuggling network. Complaints were filed and arrest warrants issued by the United States Magistrate, Eastern District of Pennsylvania, for ten subjects charging them with violations of Title 21, United States Code, Sections 841 and 846. Search warrants resulted in the seizure of a Mercedes Benz, a Ford van, several weapons and approximately \$500,000 in cash. This operation is headed by John LaPorta who is associated with the Gambino organized crime family. On May 7, 1984, four subjects of this investigation entered guilty pleas.

On February 27, 1984, a Federal grand jury, Eastern District of Pennsylvania, returned a sealed 24-count indictment charging Dennis Virelli and 13 others with manufacturing and distribution of methamphetamine as well as with conducting a continuing criminal enterprise that produced substantial drug profits. This case is a two-and-one-half-year joint effort by the FBI, DEA, IRS, Philadelphia Police Department, and the Pennsylvania State Police. This case focused upon a major \$15 million methamphetamine network within the Philadelphia area which has been identified to include members of the Bruno organized crime family in Philadelphia and members of the Pagann Outlaw Motorcycle Gang. On May 23, 1984, nine subjects pled guilty; on September 5, 1984, sentences were imposed ranging from five years custody to probation. Virelli, in October 1984, received a 12-year sentence.

On April 9, 1984, arrest and search warrants were executed in Illinois, Wisconsin, Pennsylvania, New Jersey, New York, and Italy. These arrest warrants charged narcotic and RICO violations. Numerous search warrants executed simultaneously with these arrests resulted in the seizure of narcotics, cash, jewelry, weapons, vehicles, and voluminous financial and narcotic records. There were seizures of numerous automatic weapons and several weapons and assorted equipment which are normally used by professional "hit men." In addition, bulletproof vests, "flak" jackets, and a tranquilizer gun were seized. On April 19, 1984, a twelve-count indictment was filed in the Southern District of New York against 38 defendants. In addition, six individuals were indicted in Philadelphia and four in Detroit for distribution of narcotics. These arrests, searches, and indictments are the result of interconnected investigations targeting the operation of a major international drug trafficking ring created by an association of organized crime families that have smuggled massive amounts of heroin into the United States. These investigations were conducted jointly with the DEA, United States Customs Service, Internal Revenue Service, and the New York City Police Department with the close cooperation of Italian authorities.

On July 18, 1984, indictments were returned against 22 members and associates of the Pagann Outlaw Motorcycle Gang, charging them with various narcotic and RICO violations and continuing criminal enterprise. On July 19, 1984, simultaneous raids occurred resulting in the arrests of 13 subjects at New York, Newark, Baltimore, and Philadelphia. Raids and searches resulted in the seizure of numerous articles related to the Pagann Outlaw Motorcycle Gang including colors, plaques, rings, pictures, and other memorabilia. Subjects arrested include Paul Perry, national president, and other high-ranking members of this outlaw motorcycle gang. This case is a joint investigation with DEA and the Bureau of Alcohol, Tobacco and Firearms, as well as local jurisdictions, directed at the illegal activities of the Pagann Outlaw Motorcycle Gang.

On August 17, 1984, eight subjects were arrested for various Title 21 violations; clandestine laboratory equipment, chemicals and methamphetamine were seized at various locations throughout the Midwestern United States. The comprehensive assault plan to effect the above arrest and search warrants included the use of two helicopters piloted by four FBI Agents, the Minneapolis FBI SWAT Team, four members of the FBI Hostage Rescue Team, and the support of other Federal, state and local law enforcement agencies. This drug raid was completed without incident and is considered to be the largest drug raid in the history of South Dakota.

On November 20, 1984, the Los Angeles Office executed simultaneous arrest and search warrants at multiple locations within the Los Angeles area. These warrants named ten members of the Vagor Motorcycle Gang, including their national president, an engaging in the manufacture, sale and distribution of methamphetamine. This narcotic network extended from Los Angeles to Rochester, New York. As a result of the execution of the warrants, eight subjects were apprehended; several firearms were recovered; narcotics and narcotics paraphernalia, and one vehicle were seized.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
White-Collar Crime.....	2,936	2,764 \$139,187	2,936	2,849 \$144,457	...	...

Long-Range Goal: To reduce losses in Government program, private sector businesses, and labor unions from corruption, fraud, and embezzlement; and to provide investigative assistance to the Department of Justice including United States Attorneys throughout the United States in Civil and Antitrust matters.

Major Objectives:

To identify, investigate, and obtain prosecution in major fraud against the government cases involving illegal practices by program and project management officials and officers of firms doing business with or for the Federal Government.

To identify, investigate, and obtain prosecution of Federal violations involving systematic corruption by Federal, state, and local executive and management level public officials.

To identify, investigate, and obtain prosecution of Federal fraud and embezzlement violations committed by bank officers, directors, and owners, particularly those that result in the financial institution's failure or merger in lieu of failure.

To identify, investigate, and obtain criminal prosecution of Federal fraud violations committed by officers, directors, and major stock holders of financial institutions such as commodity futures brokerages, boiler rooms, off-shore banks, commercial financing firms, and organizations dealing in fraudulent or stolen securities involved in interstate or foreign commerce.

To identify, investigate, and obtain criminal prosecution of Federal violations committed by officers, directors, and owners of major companies involved in the illegal disposal of toxic waste.

To establish new and innovative means of collecting and collating White-Collar Crime Program intelligence data from multiple sources in order to identify high impact white-collar criminal organizations for subsequent investigation.

To support the Antitrust Division of the Department of Justice in the enforcement of antitrust statutes in high-impact cases by conducting the necessary investigations.

To support the Civil Division of the Department of Justice and United States Attorneys throughout the country in representing significant Government interests in civil matters.

To identify, investigate, and obtain prosecution of corrupt labor union officials involved in the embezzlement of union pension funds.

To support and actively participate in the efforts of the President's Council on Integrity and Efficiency and the Attorney General's Economic Crime Council to coordinate a unified attack on high impact white-collar crime.

To assist other Federal, state, local, and foreign law enforcement and regulatory agencies in making a coordinated and effective attack on white-collar crime.

To insure that White-Collar Crime Program management provides sufficient coordination, direction, and resources to enable the FBI to address all priority investigations.

Base Program Description: White-collar crime is defined as those illegal acts which are characterized by deceit, concealment, or violation of trust and which are not dependent upon the application or threat of physical force or violence. Such acts are committed to obtain money, property, or services; to avoid the payment or loss of money or services; or to secure personal or business advantage.

In August 1980, the Department of Justice identified and ranked priority areas regarding white-collar crime. These are oriented against: Federal, state, or local government; public officials and private individuals; business, consumers, investors and employees, and crimes affecting the health and safety of the general public.

In response to the above, the FBI established three major priorities in July 1981. They are: (1) fraud against the government matters involving U. S. Government officials, or losses exceeding \$25,000; bribery and other public corruption involving Federal officials (governmental fraud); (2) state and local public corruption (public corruption) and (3) financial crimes.

Governmental fraud investigations are directed at bribery of public officials and program and project fraud involving the 13 Departments and 57 Agencies of the Executive Branch of Government. These investigations are inherently difficult to pursue due to the problems of identification and subsequent documentation of violations in massive Government components. The establishment of governmental fraud as a priority of the FBI's White-Collar Crime Program is in concert with and supportive of priorities established by the Administration, the Attorney General, and the Director of the FBI. In an address by President Reagan to a Joint Session of Congress in February 1981, the President referred to one estimate that fraud results in as much as \$25 billion of unnecessary expenditures for Federal social programs.

In March 1981, President Reagan established the President's Council on Integrity and Efficiency (PCIE). The PCIE is an interagency task force formed to combat governmental fraud and is composed of top officials of the Department of Justice, FBI, and Offices of the Inspector General. The PCIE is chaired by the Deputy Director, Office of Management and Budget (OMB). Memoranda of Understanding between the FBI and the Office of the Inspector General (OIG) at each Department clearly define the primary investigative jurisdiction of the FBI in governmental fraud matters. These memoranda have been executed with all of the OIGs except the Department of Defense, which has agreed in principle with a draft memorandum which should be executed shortly. Where appropriate, the interagency "task force" approach is used to address major governmental fraud cases in an efficient and effective manner. The Governmental Fraud Task Force draws upon the criminal investigative expertise of the FBI, and the Offices of Inspector General, as well as state and local authorities to identify, investigate, and obtain prosecution of illegal practices by program and project management officials and officers of firms doing business with or for the Federal Government. In addressing the governmental fraud problem, the FBI is uniquely qualified in terms of training and experience. Special agents are trained to locate and collect evidence derived from voluminous amounts of Federal program and project records. After building a case with solid documentary evidence, they present the evidence to the Federal prosecutor for criminal prosecution. These prosecutions can result in subsequent convictions, forfeitures, and fines paid to the Government.



Public corruption, the White-Collar Crime Program's second ranked priority, primarily concerns systematic corruption by Federal, state and local executive and management level public officials. Allegations in these matters differ from those in governmental fraud matters in that they are not directly related to the administration of Federal programs or projects. Although public corruption often occurs in a wholesale manner of bribery and voter fraud in some localities, in other localities or levels of public office it occurs in a more discreet manner. The problem associated in addressing public corruption are essentially two-fold, the often singular sources of the allegations and the extreme sensitivity of the investigation. The ultimate victims of public corruption are the taxpayers, honest public officials, and honest business competitors for public contracts, who are frequently not in a position to testify as to their direct knowledge of the public corruption matter. The hard evidence to support an allegation of public corruption must often be gained through the testimony of informants and cooperating witnesses, the use of continuously monitored recordings, and undercover operations.

As these investigative techniques become known through their exposure during subsequent courtroom proceedings, they must be replaced by new and often more labor-intensive techniques. Electronic and operational countermeasures have also been employed by some of these same sophisticated white-collar criminals. Because of the pressure which wealthy and politically powerful public officials are able to exert, it is frequently difficult for state and local authorities to effectively conduct public corruption-type investigations.

Financial crime investigations primarily address frauds, thefts, and embezzlements occurring within or against the national and/or international financial community. Priority matters currently of particular concern are bank failures or bank (and savings and loan association) mergers in lieu of failure caused by fraud and embezzlements perpetrated by bank officers, directors, and owners, or major stockholders. A recent congressional study found actual or probable criminal misconduct by officers, directors, or other insiders in 61 percent of recent bank failures and concluded that officials of failed or problem banks usually escape prosecution or sanctions by the Government. The study also found that in 50 out of 75 FBI investigations of failed banks and savings and loan associations, the banking regulatory agencies either made no criminal referral to the Department of Justice or did so only after the institution failed. During 1983, criminal activities by bank officers, directors, and owners contributed to 35 bank failures. The assets of these institutions total far in excess of \$3 billion. In one bank, as much as 80 percent of its \$2 billion loan portfolio is in danger of being uncollectible due to management's allegedly illegal lending activities. There have been over 450 separate criminal referrals for investigation in the failures, and in one of these, 27 separate subjects have been identified. Information from a bank regulatory agency indicates that there were 48 bank failures in 1983, which matches the post-depression record of 48 failures in 1940. There were ten bank failures a year from 1979 - 1981. This was followed by 42 in 1982, 48 in 1983, and as of July 24, 1984, there have been 45 failures. Major bank failure investigations are currently underway in Oklahoma City, Knoxville, and Seattle. A fourth major bank failure investigation is anticipated in Texas in the near future.

Another priority area of financial crime investigations is that of fraudulent transactions being conducted by certain commodity futures brokerages, off-shore banks, commercial loan brokerages, and organizations dealing in counterfeit or stolen securities. The FBI is placing particular emphasis on high-pressure nationwide telephone solicitation operations which are annually selling tens of thousands of unsuspecting Americans hundreds of millions of dollars in everything from worthless real estate investments to fraudulent commodity futures contracts. Continuing technological advances in mass marketing and electronic fund transfers enable the perpetrators of these fraudulent schemes to operate with remarkable speed and efficiency.

A relatively new area of financial crime investigations is computer-related crimes. Four main categories of computer-related crime are the utilization of computer output to perpetrate fraud, the manipulation of computerized bank accounts, the theft of copyrighted computer software, and the illegal utilization of nationwide telephone networks to access computers.

Another new area of financial crimes investigations concerns the recently enacted Electronic Fund Transfer Act. Although it is too early to assess the full effect of this WCC problem, the potential appears to be great. The credit card and the debit card used in electronic fund transfers bear similar characteristics and indeed may be the same card. The credit card industry reports a problem of significant proportion which may be reflective of the potential for debit card fraud. MasterCard International reports that in 1981, losses due to fraud were \$26 million, and by 1982, the losses had escalated to \$46 million, or an increase of 77 percent. Visa International net its losses at \$740,000 in 1981, yet projected its 1982-1983 losses to exceed \$20 million.

While no more current figures are readily available, a research project funded by Peat, Marwick, Mitchell and Company, entitled How to Detect and Prevent Business Fraud, and published in 1982 by Prentice-Hall, reported that losses from WCC and fraud are approximately \$200 billion per year.

Financial crimes matters such as bank failure and commodity futures fraud investigations often require the concentration of relatively large amounts of FBI personnel for extended periods of time. FBI WCC Investigators and special investigative support technicians, by virtue of their formal education and experience in accounting investigations, are uniquely qualified to conduct these investigations. The Investigative Support Information System (ISIS) is an electronic data processing system which is often utilized to process the voluminous amounts of documentary evidence encountered in these types of investigations.

The FBI also conducts extensive investigations in connection with the Government's prosecution of antitrust matters and litigation of civil matters. The Federal Bureau of Investigation is the only law enforcement agency with the necessary combination of qualified personnel and investigative resources to successfully address some of the monumental white-collar crime problems presently in existence. The Administration's efforts to stem fraud, waste, and corruption in Federally funded programs and projects and the need to restore public confidence in government operations at all levels, including the financial industry, have mandated a stronger and more coordinated Federal law enforcement response to white-collar crime.

The Comprehensive Crime Control Act of 1984 has resource implications in the White-Collar Crime Program's investigative areas; however, the lack of historical data, prosecutive guidelines, and policy make it difficult to provide precise estimates at this time.

Accomplishments and Workload: Accomplishments of the White-Collar Crime Program are presented in the following table:

Item	Estimates		
	1983	1984	1985
<b>Investigative Matters:</b>			
Pending beginning of year.....	23,625	21,418	21,291
Received.....	49,383	48,778	54,250
Resolved.....	51,589	48,905	51,094
Convictions.....	4,505	4,148	3,400
Pre-trial Diversion.....	406	356	337
Fines (\$000).....	\$15,623	\$19,925	\$23,000
Recoveries (\$000).....	\$347,682	\$454,346	\$264,209

	Estimates			
	1983	1984	1985	1986
Potential Economic Loss Prevented (\$000,000).....	\$1,787	\$540	\$2,370	\$2,370
Claims against the Government (\$000).....				
Filed.....	\$173,591	\$163,194	\$100,000	\$100,000
Settled.....	\$15,335	\$34,786	\$10,000	\$10,000
Claims by the Government (\$000).....				
Filed.....	\$76,997	\$24,462	\$50,000	\$50,000
Settled.....	\$95,643	\$343	\$17,000	\$17,000

The FBI's White-Collar Crime Program is divided into three major parts: governmental fraud, public corruption, and financial crimes. Governmental fraud investigations resulted in 954 convictions and pre-trial diversions in 1984.

Following a five-year FBI investigation, the Eastern Electric Sales Company, Inc., Virginia Beach, Virginia, entered a nolo contendere plea to 38 counts of an indictment charging the corporation and officers with fraud against the government violations among other violations. The corporation had annual gross sales of approximately \$150 million, assets of over \$100 million, and employed 500 people at five locations. Investigation by the FBI showed that certain officers of this corporation engaged in a fraudulent scheme for over ten years, which included short shipping and mismarking electrical cable purchased for installation in hospitals, various government facilities, and in one case, the Washington, D. C., rapid transit system. A fine of \$1.5 million was imposed in lieu of forfeiture of all of Eastern Electric Sales assets. An additional fine of \$61,000 was also imposed on the corporation. The president of Eastern Electric Sales was sentenced to seven years confinement and a \$6,000 fine for his involvement.

On October 7, 1983, Davey Compressor Company of Cincinnati, Ohio, and its former executive vice-president John D. Falco, pled guilty to fraud against the government charges. A joint investigation by the FBI, Defense Contract Audit Agency, and the Defense Contract Investigative Services determined that Davey Compressor Company had submitted over 50 fraudulent contract pricing proposals to the Department of Defense. This company had annual sales of \$20 million, of which \$14 million was to the Department of Defense, primarily for spare parts on heaters and air compressors. Davey Compressor Company was fined \$250,000, and assessed \$2.75 million in civil damages and penalties. At the time of sentencing, the company paid the government the above \$3 million in fines, damages, and penalties as well as an additional \$440,259 for overcharging the Department of Defense on packaging costs.

On December 28, 1983, Pacesetter System, Incorporated, Sylmar, California, and two of its former senior officers entered guilty and nolo contendere pleas to fraud against the government charges. The FBI investigation determined that the company paid kickbacks on the sales of its heart pacemakers. These items were ultimately paid for with Medicare funds.

On July 6, 1984, Telectronics Proprietary Ltd, Englewood, Colorado, pled guilty to governmental fraud charges in U.S. District Court. A joint FBI/Office of the Inspector General for Health and Human Services investigation determined that Telectronics paid kickbacks to physicians an inducement to implant its cardiac pacemakers. Costs associated with purchase and implantation of the pacemakers were paid with Medicare funds. Telectronics has agreed to make restitution to the Government of \$243,115 plus interest in addition to any fine the court might impose.

In 1984, FBI investigations of toxic waste related violations resulted in eight convictions and pre-trial diversions.

Public corruption investigations resulted in 352 convictions and pre-trial diversions in 1984.

On August 10, 1983, Frank Roblin, Jr., a former Department of Justice Attorney, was found guilty of Bribery and Obstruction of Justice. The FBI's investigation substantiated allegations that Roblin had offered grand jury material and other information through intermediaries to the subject of a narcotics investigation. Roblin was part of a team of Federal prosecutors assigned to the Government's investigation and prosecution of the same narcotics subject. Roblin was sentenced to ten years imprisonment to be followed by five years probation, and was fined \$5,000.

In September 1983, Evan Callanan, Sr., 18th District Court Judge, Westland, Michigan, was convicted of conspiracy and fraud charges which involved bribes paid to him for the fixing of cases. Callanan's son, a practicing attorney, was also convicted in that trial. Three other persons, including Judge Callanan's court officer, were also found guilty. In October 1983, Judge Callanan was sentenced to ten years imprisonment, and his son was sentenced to eight years. The sentencing judge remarked that, "it's a sad day for the judiciary," and quoted U.S. District Judge George Pratt of New York by stating that, "the cynicism and hypocrisy displayed by corrupt officials pretending to serve the public, but in fact furthering their own private gain, probably poses a greater danger to this country than all the drug traffickers combined."

On September 15, 1983, two former Hillsborough County (Tampa, Florida) Commissioners, Fred Anderson and Joe Kobay, were sentenced by a U.S. District Court Judge to eight years imprisonment for bribery and commercial extortion. A local attorney, Michael Sierra, was also sentenced to four years imprisonment for his part in a scheme to pay bribes to various Commissioners in order that they would vote favorable in zoning matters involving major development projects. A third county commissioner, Jerry M. Bower, entered a guilty plea in this matter, and agreed to cooperate with the Government.

Another case involving widespread systematic corruption involved that of the Cook County (Chicago) Board of Tax Assessors. This ongoing investigation was initiated during 1979, and concerns the wholesale pattern of corruption on the part of public officials and attorneys accepting payoffs from property owners in return for real estate tax assessment reductions in Cook County, Illinois. By the end of 1983, there were 29 individuals who had been charged in several conspiracies which resulted in over \$135 million in fraudulent real estate assessment reductions during the period 1975 - 1980. Alleged violations involving over \$1 million in cash bribes have been adjudicated, 23 by conviction, two by acquittal following a jury trial, and one by the dismissal of the indictment following the death of the defendant.

The widely reported investigation in Oklahoma, code named CUNCOM, has resulted in the convictions of 170 individuals through 1983, many of whom were county commissioners who accepted kickbacks from vendors doing business in that state. Furthermore, the State of Oklahoma has reformed the commissioner type of government and has centralized its system for the purchase of materials and equipment for Oklahoma counties. The savings accruing to the citizens of Oklahoma, as a result of this FBI operation, are incalculable.

FBI investigations of alleged public corruption and voter fraud during elections held in 1982 have resulted thus far in 15 convictions in Chicago, ten convictions in Guadalupe County, New Mexico, seven convictions in Clay County, North Carolina, and 25 convictions in Duval County, Texas. Public officials convicted in this ongoing nationwide attack on Election Law violations include magistrates, sheriffs, commissioners, and county assessors.

On January 9, 1984, former Circuit Court Judge Elwood Leon Hogan and District Court Judge James Dennis Sullivan, Mobile County, Alabama, were sentenced to two concurrent 20 year sentences following their convictions on public corruption charges. William W. Holloway, supervisor, Alcohol Beverage Control (ABC) Board, Montgomery, Alabama, was sentenced to two concurrent twenty-year sentences and two concurrent five-year sentences in this same case. Darwood Elliott, another ABC Board supervisor, was sentenced to three concurrent fifteen-year sentences in this matter. An FBI investigation determined that these officials all received bribes from some of the same individuals in exchange for favorable treatment.

On July 9, 1984, Edward M. McIntyre, former Mayor of Augusta, Georgia, was sentenced to five years in prison, five years probation, and a \$10,000 fine following his conviction for public corruption charges. An FBI investigation determined that McIntyre received bribes from real estate developers in exchange for favorable treatment on their development of city owned properties.

On July 24, 1984, former New York State Senator Vander Lloyd Beatty pled guilty to public corruption charges in U.S. District Court. An FBI investigation determined that Beatty diverted a substantial portion of \$445,000 in funds from the State of New York for his private use.

On August 2, 1984, former Congressman Eugene P. Mantropieri, Queens, New York, was sentenced to 18 months in the custody of the Attorney General following his conviction on conspiracy/bribery charges. The Southland Corporation was fined \$10,000 following its conviction in this matter. An FBI investigation determined that Mantropieri was bribed by representatives of Southland Corporation to exert his influence in resolving a New York State sales tax dispute.

On August 3, 1984, New York State Senator Joseph R. Pisanelli was sentenced to four years custody of the Attorney General, and fined \$69,000 following his conviction on public corruption violations. A joint FBI/IRS investigation indicated that Pisanelli had embezzled a total of \$83,000 from the State of New York, from his political campaign fund, and from his former law firm.

Financial crimes investigations resulted in 3,076 convictions in 1984. Of this number, 1,905 convictions were bank-related violations.

On September 6, 1983, Edward P. Wolfgram, Jr., a former managing partner of the Bell and Beekwith Company of Ohio, was sentenced in U.S. District Court to 25 years confinement. He was convicted of fraud charges in connection with the largest single theft from a stock brokerage firm in the history of the New York Stock Exchange and the Securities and Exchange Commission (SEC). A joint investigation by the FBI and the SEC determined that Wolfgram misappropriated over \$47 million in funds from Bell and Beekwith.

On December 15, 1983, James Barrick was sentenced to two years probation, a \$10,000 fine and three years confinement suspended for his conviction on fraud charges. An FBI investigation determined that Barrick had purloined an engineering graphics computer program worth \$1,050,000 from the Structural Dynamics Research Corporation of Millford, Ohio. Barrick, an honor student at Purdue University, sold the computer program to a competitor of his work-study employer, Structural Dynamics.

In 1984, fines and recoveries in the White-Collar Crime Program totaled over \$464 million, and exceeded more than nine times the cost of white-collar crime investigative workyears (\$49.2 million).

The Antitrust and Civil Matters Program, during 1984, recorded 55 individuals, who were either found guilty or pled guilty, as a result of evidence uncovered through FBI investigations. In addition, \$9.5 million in fines were imposed, recovered with a value of \$731.6 thousand were made, and \$26 million in potential economic losses were prevented. One ongoing antitrust matter, which in resource intensive, has resulted in the indictment of six of the largest electrical contractors in the United States.

Finally, during 1984, \$163.2 million in claims against the Federal Government were settled for \$34.8 million. Suits filed by the Government in that time period were instituted for \$24.5 million. Settlements were made for \$343 thousand by the Federal Government.

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Activity: Investigative Support	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perma.			Perma.			Perma.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Training.....	401	390	\$24,909	401	390	\$35,516	401	390	\$35,516	...	...	...
Forensic Services - Federal.....	319	308	16,265	319	308	16,417	319	308	16,417	...	...	...
ADP and Telecommunications.....	560	546	130,222	560	548	137,597	560	548	137,597	...	...	...
Legal Attache.....	72	70	4,828	72	70	5,165	72	70	5,165	...	...	...
Records Management.....	1,288	1,247	37,236	1,288	1,247	37,805	1,288	1,247	37,805	...	...	...
Technical Field Support & Equip...	147	143	84,192	147	144	60,885	147	144	60,885	...	...	...
Total.....	2,787	2,704	307,652	2,787	2,707	293,385	2,787	2,707	293,385	...	...	...

Investigative support is provided through training, forensic laboratory examination and research, attaches in foreign countries, efficient management of investigative and administrative records, automatic data processing and telecommunications management and maintenance, and technical field support and equipment supply.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Training.....	401	390 \$24,909	401	390 \$35,516	...	...

Long-Range Goal: To provide the introductory training and the continued professional development of FBI special agents and support personnel to insure that they are prepared to carry out their responsibilities in an efficient and effective manner and in compliance with laws and Government regulations; to evaluate, through research, the methods, techniques, and equipment which may enhance the FBI's ability to perform its law enforcement mission; and to maintain and improve the land, buildings, equipment, furnishings, and fixtures which make up the FBI Academy complex in a manner consistent with and conducive to an effective, efficient, safe, and healthy learning and living environment.

#### Major Objectives:

Provide the highest level of training for new agents to insure that their knowledge and skills are developed to enable them to discharge their complex responsibilities in a professional manner at the outset of their careers and provide follow-up training and assessment during the probationary period.

Provide advanced professional training and support at the FBI Academy and in the field for special agents and support personnel, enabling them to carry out their responsibilities in an efficient, professional, and effective manner.

Improve, through management programs, the ability of mid- and upper-level FBI executives to more effectively carry out their increasingly complicated responsibilities, and provide for job enrichment and career development opportunities for support personnel through educational and training programs at the FBI Academy and in the field.

Conduct necessary research, evaluation, and development, and provide direct field support to accomplish the training objectives cited above.

Maintain and improve the land, buildings, equipment, furnishings, and fixtures of the FBI Academy complex, and to construct a multi-purpose dormitory including associated support systems and continue development of the Practical Problems Training Complex.

Base Program Description: New Agents' Training Program: The instruction at the FBI Academy encompasses, but is not limited to, the following major topics over a 15-week period: substantive statutory violations, national security matters, basic law enforcement and forensic skills, behavioral science, legal instruction, communications, field office administration, firearms, arrest techniques, physical fitness, professional conduct, and ethics.

Advanced Professional Training and Direct Field Support Program: Special agents periodically return to the FBI Academy for instruction in specialized areas based upon the investigative needs and priorities of the FBI. Specialized training and direct field

support are also provided by FBI Academy instructors and FBI Headquarters personnel in field offices if these methods are more cost effective in responding to the particular need of a specific field office.

**Research, Faculty Development, and Liaison:** Currently, a limited number of FBI Academy faculty members and field instructors are pursuing graduate study in job-related areas at various colleges and universities when instructional and investigative duties permit. In addition, ongoing faculty exchange programs exist between the FBI Academy and the British and Canadian Police Colleges. Academy instructors attend symposia, seminars, and schools, and participate in other relevant educational experiences when possible. The faculty also maintains liaison with selected foreign law enforcement agencies and several foreign and United States military counterterrorism units for exchange of training information and equipment.

**Maintenance and Improvement of Physical Plant:** Employees assigned to eight maintenance and craft shops perform the required maintenance for the FBI Academy's 401 acres, 24 major buildings, 15 training, storage, and utility structures, and 6 firearms ranges.

**Accomplishments and Workload:** The FBI Academy has an optimum annual capacity of approximately 150,000 student training days (612 beds x 5 days x 49 weeks). During 1984, 155,802 student training days (104 percent of capacity) were made available, with 77,370 (50 percent) utilized for General Law Enforcement Training (GLET). FBI employee training conducted during 1984 consisted of 78,432 (50 percent) student training days. During 1984, 5,530 FBI employees were trained in various schools, seminars, working conferences, and symposia at the FBI Academy. This figure includes 680 new special agents.

In the field of operational support, consultation, and criminal psychological profiling, the FBI Academy staff has had notable achievements. During 1984, technical assistance in the form of case analysis, personality assessment, and construction of personality profiles was provided in 71 FBI investigative matters. This assistance contributed to the identification and apprehension of subjects in homicide, kidnapping, extortion, bombing, and Hobbs Act cases. Significant time and effort were expended on major FBI investigations, such as, COLEMAN, MURKIN, WELLS, NITRO, SENE, REDON, BOSCH, MILLER, STICKER, and Operation PAYDAY. During the past year the FBI Academy staff was increased by four special-agent investigative profilers. These special agents have now completed a training phase and are engaged in handling profiling cases on a full-time basis. For the first time, personality assessments are being conducted on selected fugitives of the FBI's Ten Most Wanted Fugitive Program.

During 1984, the FBI completed the feasibility and environmental impact study in connection with anticipated construction of a third dormitory. As a result, a successful negotiation for architectural and engineering services in 1985 was completed in anticipation of a construction contract in 1986. In addition, the same studies were conducted for the radio engineering building to be constructed at the FBI Academy. Architectural and engineering services were successfully negotiated and construction anticipated in 1985. The FBI procured the services of an architect engineer and completed the preparation of construction documents for an Administration and Operations Building for the FBI's Heritage Rescue Team. Construction commenced the last quarter of 1984. The first phase of construction of the Practical Problems Training Center (PPTC) began the last quarter of 1984. The full development will require a multiyear commitment. Academy facility improvements during 1984 included: (1) completed construction of the New Agents' Training Center/Women's Locker Room; (2) completed construction of the office portion of the surplus property warehouse; (3) completion of the drainage, landscaping, and sidewalk for the surplus property warehouse; (4) completed construction of both the active and passive solar systems; (5) completion of additions and alterations to the Field Training and Training Resource Unit and to the basement of the dining building; (6) relocation of the Behavioral Science Unit into remodeled office space; and (7) the acquisition of two prefabricated mobile structures for use in practical problems.



During 1984, the following significant research projects were completed by the FBI Academy staff: (1) the first annual "National Law Enforcement Training Needs Assessment" report; (2) a training needs assessment of the FBI National Academy; (3) a postgraduate evaluation of the National Academy Program; (4) the methodology and collection procedures for the new mandatory physical fitness program for special agents; (5) the technical monitoring of the contractor developing the New Agent Selection System administration center; (6) the implementation of a new program for safeguarding the psychological health of undercover agents; (7) the Special Agent Task Analysis for OS-12 and OS-13 special agents; (8) a study of employee turnover in the FBI; and (9) a study on Police Homicide by Min-Identity.

During 1984, 7,300 FBI Special Agents were each provided 68 hours of training in the field. This training, mandated by current policies and regulations, is designed to maintain and improve investigative, technical, and administrative skills, and includes a wide variety of topics such as firearms, defensive tactics, Federal legal procedures, and other issues which affect all FBI investigative personnel. In addition to the field mandated training, 760 FBI Headquarters-based supervisory personnel each received eight hours of mandated legal training this past year. As such, 502,480 total mandated training hours for FBI Special Agents in the field and at FBI Headquarters were afforded in 1984.

A total of 11,641 support employees of the FBI were each provided four hours of training in 1984 through semiannual support personnel conferences conducted in each field office and FBI Headquarters section. This training is designed to keep support employees abreast of developments in the administrative and operational functions of the FBI, with particular emphasis on policy changes, personnel matters, and suggestions to improve efficiency and effectiveness. Approximately 46,564 total training hours for support employees in the field and at FBI Headquarters were provided in 1984.

During 1984, 675 special agents assigned to tactical response teams (Special Weapons and Tactics) were afforded approximately 102,680 hours of training in the field. This training is designed to heighten the FBI's degree of competency and preparedness to respond properly to crisis situations such as: terrorism, bombings, hostage taking, and other similar incidents over which the FBI has jurisdiction. The FBI provided a substantial commitment of resources to several national and international events which were hosted in the United States in 1984, such as the 1984 Summer Olympics in Los Angeles, California; 1984 World's Fair in New Orleans; and the Republican and Democratic national conventions.

During 1984, the FBI purchased 2,568 Smith and Wesson Model 13 revolvers for issuance to new agents and to be sent to the field to replace obsolete weapons. Additionally, 52 Smith and Wesson Model 459 pistols, 200 Model 870 shotguns, 15 Ruger 357 revolvers, 150 Model 49 revolvers, 150 Model 60 revolvers, 8 Model MP5-A2 Heckler and Koch submachine guns, and 60 MP5-A3 submachine guns were purchased and issued to field agents, SWAT team members, and other personnel for test and evaluation at the FBI Academy. In addition to the weapons, beginning with the new agents' class graduating June 5, 1984, each new agent leaving the Academy is now being issued a protective vest. By the end of 1984, 300 vests had been issued.

The Fitness Indicator Test (FIT) has been integrated into the FBI Focus-On-Fitness Program. The primary purpose of the FIT is to provide each special agent with an assessment of his/her level of health fitness and offer direction for lifestyle modification and sensible graduated exercise programs to improve overall health and longevity. The FIT was implemented in April 1984, and the second test was given in the Fall of 1984.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Forensic Services-Federal.....	319	308 \$16,265	319	308 \$16,417	...	...

Long-Range Goal: To support the Federal criminal justice system by ensuring, through scientific means, that all physical evidence is fully utilized to develop as much probative information as possible to reconstruct the crime, identify the guilty, and exonerate the innocent.

Major Objectives:

To provide professional and expeditious handling of requests for examination of physical evidence.

To assist in the prosecution of criminal matters by providing sound, objective, expert testimony in a wide variety of forensic disciplines.

To provide scientific and technical support to ongoing FBI and DEA investigations.

To conduct sufficient forensic science research to make the best use of physical evidence, stay abreast of new technology, and improve ability to support ongoing investigations.

To provide forensic science training to Federal investigative and crime laboratory personnel to maximize the use of physical evidence in the solution and prosecution of crimes.

To provide specially designed investigative devices and apparatus for use in criminal and counterintelligence investigations.

Base Program Description: Requests for examination of evidence come to the FBI Laboratory as a result of FBI field investigations and from other Federal agencies which do not have laboratories with the technical capability to perform a particular type of examination.

The cases received include specific requests made by the contributor to conduct a wide range of forensic examinations on the physical evidence (specimens) obtained during the investigation of a crime. Requests are received in the Evidence Control Center where pertinent information concerning the request is recorded in a computer. The request is then assigned a priority for examination and assigned a principal examiner. The examiner is totally responsible for the case - determining what examinations must be done to obtain the greatest technical information from the specimen(s), maintaining the chain of custody of the evidence, obtaining auxiliary examinations, supervising and conducting examinations, reading and assembling the results of other examiners, and writing the final laboratory report. The examiner may be called upon to render expert testimony concerning the results of the examination in subsequent court proceedings.

On occasion, during the investigation of FBI matters such as terrorist bombings, arson matters, undercover operations and kidnappings, among others, laboratory personnel are required to provide on-site technical support or to conduct a crime-scene search. Agent examiners are also requested to perform undercover work when persons having a technical background are needed during an investigation.

The Laboratory provides direct scientific and technical support to ongoing FBI and DEA investigations. Areas of this support include management of the polygraph program; management of the photographic equipment program; direct photographic assistance in complex investigative situations; artist's conception drawings; direct crime-scene support in major cases and unusual investigative situations; design and fabrication of special investigative equipment, and special support to undercover operations.

The FBI Laboratory dedicated the Forensic Science Research and Training Center (FSRTC) at the FBI Academy, Quantico, Virginia, on June 16, 1981. Using the scientific input from the forensic science community, industry, academia, as well as identified FBI needs, a significant forensic science research program has been established. Forensic research, conducted mainly at the FSRTC, includes: basic forensic research, the evaluation of current and new methods and equipment, and the development of standards to be used in forensic science examinations as well as FBI field operations.

With the opening of the FSRTC, the Laboratory substantially increased its capacity to provide forensic science training to FBI, other Federal, state, and local law enforcement officers, and crime laboratory personnel. The purpose of this training is to increase awareness of the probative value of physical evidence among Federal law enforcement personnel, to further professionalize crime laboratory personnel, and to decrease state and local law enforcement agencies' dependence on the FBI Laboratory.

Accomplishments: Actual and projected accomplishments for the Forensic Services - Federal program are presented in the following table:

Item	Estimates		
	1983	1984	1985
1. Laboratory Examinations:			
a. Requests for Examinations	12,366	11,990	12,000
b. Specimens Submitted	120,025	96,137	100,000
c. Examinations Conducted	624,574	657,085	660,000
d. Days Spent in Testimony	1,104	988	1,000
Statistics above were captured through the Laboratory's Management Information System and indicate the actual and expected forensic examination workload. Much of the increase in the number of examinations conducted may be attributed to successful research and/or technological advances which permit more examinations per specimen.			
2. Related Laboratory Support Activity			
Forensic Science Training:			
1. Hours Devoted to New Agent and In-Service Training	9,720	12,972	6,936
Forensic Science Research:			
1. Workdays Devoted to Research	4,630	5,780	5,780
Other Significant Activities in the Federal Area:			
1. Polygraph Control Reviews	12,281	11,103	11,000
2. Trial Aids Prepared	1,591	7,629*	8,010
3. Investigative Aids Prepared	6,234	8,470	8,893
			12,800
			8,410
			9,338

Item	Estimates			
	1983	1984	1985	1986
4. Photographic Prints Processed	1,280,405	1,323,789	1,389,978	1,459,477
5. Microfilm Processed (feet)	348,067	758,691	1,669,120	1,836,032
6. Days Spent In Direct Investigative Support	591	831	840	850

A substantial portion of this increase is a result of a different method of counting. In the past, the figure included only those charts constructed entirely in Special Projects Section. This figure includes instances where a part of the chart may have been done in a different Section of the Laboratory but the chart layout and mounting were done in Special Projects Section.

The accomplishment figures indicate that, while the traditional Laboratory functions of forensic science examinations, research, and training still represent the major objectives of the decision unit, other areas of technical support to Federal law enforcement agencies, such as preparation of specialized investigative devices and all types of photographic support, are assuming a more important role and requiring a larger share of available resources.

Laboratory managed field programs enjoyed great success in 1984. For example, FBI Polygraph Examiners conducted in excess of 2,800 polygraph examinations. Investigative direction was provided in more than 2,400 instances. Deception was diagnosed in more than 1,200 examinations and over 800 confessed their guilt or knowledge of the matter in question. In cases where confessions were obtained, the property value was in excess of \$50 million. As a result of the field polygraph program, photographic coverage was a major, if not the primary factor leading to 442 convictions and in 334 convictions obtained as a result of Surveillance Squad assistance. Property and money recovered were valued at \$112,387,531, and the Economic Loss Prevented was estimated at \$94,390,796.

During the past year FBI Laboratory support was provided in such highly publicized cases as:

- The bombing of the Marine Barracks in Beirut, Lebanon
- The bombing of the American Embassy in Lebanon
- Crime-scene searches in several states were conducted in connection with the MORNAP case where subject Christopher Wilder abducted, raped, and killed numerous women across the United States Laboratory findings associated several of the victims with Wilder or with vehicles which had been in his possession.
- COLMAN (Top 10) Alton Colman and female accomplice Debra Brown arrested for murder, rape, and a robbery spree in several mid-western states. Fourteen different submittals from local police jurisdictions involving over 550 items of evidence were examined.
- STICKPIN case involved contamination of girl scout cookies. Over 562 specimens from 28 field offices and Legat Bonn were examined.

- JACK RAUSCH, ET AL Fraud Against the Government, Department of Defense, Case Involves missile components and received national publicity. Extensive examination revealed the presence of gross casting defects in some missile components and, in addition, revealed that approximately 39 percent of cast parts population do not meet specifications in tensile strength.
- The Laboratory examined hundreds of specimens from MY Omega 7 bombings (an anti-Castro terrorist group). The results of these examinations played a significant role in successful prosecution of the principal bomb builder, Eduardo Arceena. This successful prosecution culminated a nine-year major case investigation by the FBI that has effectively defeated the Omega 7.

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	WY Amount	Perm.	WY Amount	Perm.	WY Amount	Perm.	WY Amount
ADP and Telecommunications.....	560	546 \$130,222	560	548 \$137,597	560	548 \$137,597	...	...

Long-Range Goal. To support the FBI's information collection, storage, retrieval, and dissemination requirements through management of the FBI's ADP and Telecommunications (ADPT) resources.

Major Objectives:

During 1986, activities will be directed toward accomplishing systems integration and a fully distributed processing environment as prescribed by the long-range automation strategy. Primary focus for this integration will be the administrative and investigative mission areas. Technologies which will provide the "glue" for this systematic integration will be pursued vigorously. Major emphasis is placed on software (i.e., software methodology), the data (i.e., data base), and telecommunications to insure orderly and comprehensive integration of systems to meet the FBI's needs.

To develop and implement a Cybernetic Integrated Investigative Information System (CIIS) to integrate the common functions of existing applications Organized Crime Information System (OCIS), Investigative Support Information System (ISIS), Intelligence Information System (IIS), Field Office Information Management System (FOIMS), and the Computer-Assisted Analytic Support System (CAASS).

To develop and implement an interactive version of the CAASS for FBI Headquarters to enhance its ability to manage investigative activities on a national level.

To continue the development and implementation of an Integrated IIS, which distributes selected storage and processing functions to intelligent terminals in field locations.

To maintain and enhance the Integrated Terrorist Information System, which distributes selected storage and processing functions to intelligent terminals in field locations.

To continue to maintain and enhance the OCIS, which distributes selected storage and processing functions to intelligent terminals in field locations and to initiate conversion of OCIS to a new Data Base Management System.

To provide support to the highest priority investigations through the operation, maintenance, and enhancement of the ISIS.

To complete the implementation of the Integrated Resource Management System (IRMS), which provides the Administrative Services Division with on-line access and data query capabilities for personnel, financial, and statistical information.

To complete the development and implementation of an integrated system which provides the Training Division with on-line scheduling and instructional capability, data query, statistical assistance, and support for the mock field office.

To complete the design, development, and implementation of an Automated Records Management System (ARMS), to integrate the data/functions among major ARMS subsystems and to support the development of a distributed index to be shared with FOIMS and other investigative systems.

To initiate the implementation of the second phase of Headquarters Office Automation, which includes adding photocomposition systems to already existing capabilities and interface to existing administrative and investigative systems.

To implement the third phase of the Decision Support System to provide FBI executives with analytic support through CAASS and access to resource management and investigative information for long-range strategic planning and policy-making.

To continue the development and implementation of a new Integrated National Crime Information Center (NCIC) system to meet current and future information needs of the Criminal Justice Community for the remainder of this century.

To support the Identification Division with the parallel operation and continued development of the AIDS-II and III systems.

To design, develop, and implement a new Uniform Crime Reporting (UCR) System (as dictated by the Office of Justice Assistance, Research and Statistics, Department of Justice, study results) to improve the collection, analysis, and dissemination of national crime statistics to the law enforcement community.

To design, develop, and implement an integrated system to support the information processing requirements of the Legal Counsel Division.

To design, develop, and implement an integrated system to provide for the collection, analysis, and retrieval of homicide data (e.g., mutilation, dismemberment, violent sexual trauma, and mysterious disappearances) in support of the National Center for the Analysis of Violent Crime (NCAVC).

To complete the accelerated implementation of RUMS and provide baseline functional support to all 59 field offices and larger resident agencies by the end of 1985.

To implement the Universal File Number (UFN) in the FBI's automated environment to provide a common reference point to consolidate case activities/information and to facilitate standardization of the index and migration to an integrated distributed environment.

To continue to plan, design, and implement an FBI-wide data base architecture to meet current and future needs of the FBI (FBIHQ and field offices) for data (Investigative, administrative, and law enforcement) and data usage in a distributed environment.

To continue to develop and implement standards, policies, and procedures and define system configuration and training requirements to effectively integrate the Standard Intelligent Terminal into the FBI's distributed processing environment.

To employ a data dictionary system to insure the development of integrated and distributed information systems for the Investigative, administrative, and law enforcement mission areas conform to the data base architecture.

To design, develop, and implement an Information System Engineering Center (ISEC) to support the development and maintenance of quality information systems and to provide initial operational capabilities for the following ISEC components: User Engineering, Systems Engineering, and Life Cycle Engineering.

To continue implementation of a secure, efficient, and cost-effective Intra-FBI Records Communication System (IRCS) to support all FBI data communications requirements.

To continue to acquire software and support staff to actively audit all activities within the TSD's automation environment.

**Base Program Description:** This program provides all ADPT services to the FBI on a nationwide basis. The Technical Services Division (TSD) insures that the FBI's ADPT resources are responsive to the agency's information processing needs, are implemented in accordance with the FBI's long-range plan, and also, are acquired, managed, and utilized in accordance with Federal laws and regulations. Cost-efficient ADPT systems are "user" oriented and provide greater efficiency in the collection, maintenance, and dissemination of investigative information. This modern technology allows the FBI to apply greater emphasis in the investigations of organized crime, white-collar crime, and foreign counterintelligence matters. The Technical Resources Committee (TRC), which includes the Assistant Directors of the major "user" divisions, reviews and ranks by priority each request level application of ADPT resources to support FBI needs. The TSD maintains daily interaction with the Technical Resources Working Committee (TRWC) members to insure that ADPT resources support the FBI's requirements. The following major ADPT systems support the FBI's internal information processing requirements: Investigative Support System (ISS) - The information systems that directly support the investigative information collection, analysis, retrieval, and dissemination capabilities of the FBI constitute the ISS. These information systems, IIS, OIIS, ISIS, and CAISS, provide central data bases to facilitate program management at both the Headquarters and field office levels. These systems will be integrated to the maximum extent possible through the use of CIIIS. These systems also provide ad hoc ADPT support to cases which involve voluminous and complex evidentiary information in an off-line mode.

Resource Management System (RMS) - RMS provides FBI management with readily accessible accurate resource information. This information supports and promotes sound managerial decision regarding the effective and efficient use of the FBI's investigative resources and long-range strategic planning and policy-making. It also is used to meet the external reporting requirements of the Department of Justice (DOJ), Office of Management and Budget (OMB), General Services Administration (GSA), and the Congress.

Field Office Information Management System (FOIMS) - This system will provide each field office with an integrated information processing system incorporating word processing, data processing, and telecommunications technologies. The long-range ADPT plan will involve integration of FOIMS with RMS and ARMS and, where appropriate, with the ISS. Additionally, efforts will be underway to develop an optimum data base architecture for use in a distributed environment. Initial effort will focus on a distributed index. In 1985, the FBI plans to renovate a facility to house the Western Regional Computer Support Center.

Automated Records Management System (ARMS) - The "FBI Central Records System" at FBI Headquarters is composed of over 7,000 filing cabinets of hard-copy textual information, which is accessed through the FBI Headquarters General Index, containing approximately 60 million 3" x 5" manual index cards. ARMS consists of automating the general index, file charge-out, locate, and mail serialization functions. ARMS will also be redesigned to integrate data/functions among major ARMS subsystems and to support the development of a distributed index to be shared with FOIMS in the regional computer centers.

Intra-FBI Records Communications System (IRCS) - The capability to transmit rapid secure textual information between FBI Headquarters, field offices, and overseas posts is vital in fulfilling the mission of the FBI. With the rapid expansion of IIS and the advent of FOIMS, it has become necessary to lease point-to-point secure telecommunications services. The FBI will continue to develop and implement IRCS to support all FBI data communications requirements, including facsimile, teletype, access to FBI ADP-systems, video teleconferencing, micrographics, and electronic mail.

Telephone Systems - The FBI must have efficient and secure telephone facilities available to support its investigative mission. A major objective is to procure secure voice capabilities for all field offices in order to support FBI foreign counterintelligence activities.

National Crime Information Center (NCIC) - The FBI's NCIC, which is managed by the Criminal Justice Data and Statistics Services program, is the only national law enforcement teleprocessing system in existence which provides documented information on wanted and missing persons, stolen property, and criminal histories. It is supported by FBI Computer Center ADP resources. Contractual efforts to support the redesign of this system will be underway.

Automated Identification Division System (AIDS) - The Technical Services Division, in conjunction with the Identification Division, is involved in a comprehensive project to automate the fingerprint card processing and related activities of the Identification Division. The resource requirements which are set forth in this program include general purpose ADPT resources.

Accomplishments and Workload: Redirected the FOIMS effort to accelerate the implementation of basic FOIMS automation capabilities to every field office by the end of 1985. Additionally, the implementation of the Universal File Number starting January 1, 1986, and the sharing of standard index data between FBIHQ and field offices will eliminate redundant indexing of data and dual data and will provide an infrastructure for performing global queries.



Completed the permanent data center at the Northeast Regional Computer Support Center (NERCSC). This Center serves as the hub of a multidivisional word processing, data processing, and telecommunications system. ADPT support to the New York, Richmond, and Boston Field Offices was initiated from NERCSC. The Phase III contract to finish construction of the NERCSC was let in September 1983. It is anticipated that construction will be completed in December 1984.

OCIS was deployed to eight additional locations. OCIS, now in 40 field locations and FBIHQ, is available to 88 percent of the agents assigned Organized Crime (OC) matters. Developed three new data base files to provide direct support to major case investigations, OC program management, and the administration of narcotic-related investigations. OCIS now supports the Drug Task Force.

ISIS was deployed to seven new locations; 22 new data bases were implemented to support ongoing major case investigations. Nineteen major cases were added. ISIS is now handling 59 major cases in 28 field offices and FBIHQ.

Developed a data base to provide the FBI's Legal Counsel Division the capability to control administration of civil actions involving the FBI. Post implementation review (PIR) of the NYROB and ANTYARM data bases were conducted. PIRs resulted in improved use of the ISIS system to support case requirements.

IIS was deployed to nine additional field locations. To date 30 field offices as well as the Ft. Worth Regional Computer Support Center FBIHQ receive IIS support, reaching approximately 85 percent of the agents assigned RCI matters. Two new data bases were implemented to support multioffice technology transfer investigations and special events such as the 1984 Olympics and political conventions.

The first component of the Terrorist Information System (TIS) was implemented to support the collection and retrieval of background information on terrorist groups and individuals. This system is now operational in three field offices--San Juan, New York, and Chicago.

The batch version of the GMASS which integrated three technologies, network analysis, statistics, and graphics, was implemented. This system was used for such tasks as identifying potential subjects warranting further investigation, assessing the sphere and scope of organized crime families, and profiling their activities using graphics. A geographic data file to provide the capability to plot locations on United States maps using area code, zip code, standard Metropolitan District, and U.S. Federal Information Processing Standards (FIPS) regional codes was acquired and implemented.

Data bases to support the following activities of the Criminal Investigative Division were automated: Undercover and Special Operations Unit; the Applicant Program -- Civil Rights and Special Inquiry Section; the General Property Crime Unit, and the Governmental Fraud Unit of the White-Collar Crime Section. This support results in improved management and control of all aspects of undercover operations to include funding, property, and false identification. It decreased turnaround time for performing background investigations, increased productivity of personnel, and enhanced the Inspector General's/FBI's ability to coordinate investigations and prosecutions of governmental fraud matters.

Fifty personal computers with necessary software were acquired to provide automation support to 36 field offices. These offices demonstrated a need for automation support which could not be adequately addressed through a large central system. At the present time, 55 field offices are utilizing microcomputers to support their investigative needs.

The Personnel Information Center in the Administrative Services Division (ASD) was expanded to provide users with the capability to perform retrievals on historical (personnel transactions dating back to January 1, 1975, and skill data. Users can now very easily and quickly obtain access to up-to-date historical and skill information on current and former FBI employees. Through the expanded use of this center, the ASD can now receive these types of ad hoc reports in a half-hour as opposed to waiting one day to receive these reports if TSD technical personnel are utilized.

A Decision Support System was implemented to aid the Executive Assistant Director of Administration in developing and maintaining target staffing levels, producing reports, scheduling appointments, and searching and retrieving text of key memoranda and notes. This system has been expanded to support the Inspection Division in conducting inspections at both FBIHQ and in the field.

An Integrated system was implemented to support the Office of Congressional and Public Affairs (OCPA) in scheduling 16,000 tours per year which involve one-half million people.

An Agent Career Board System was implemented to provide automated support to assist the Career Board in selecting agents in the career path for supervisory and managerial positions.

The first component (Procurement Inventory Accounts Payable System (PIAPS) of the Integrated PMS was completed. Fifty-nine terminals and 15 printers have been installed in the ASD to support the operation of PIAPS. PIAPS now provides the ASD the capability to generate and track purchase orders automatically, property accountability, issues and accounts for commercial invoices and expendable supplies within the FBI. Two commercial packages--General Ledger and Budgetary Control--were acquired to interface with PIAPS to fulfill 90 percent of ASD's fund control requirements. These achievements are in conformance with the Long-Range Automation Strategy and expedite the FBI's ability to integrate its resource management function and share data among FBIHQ and field users.

All FBIHQ file charge-out, locate, and mail serializations functions were supported in an on-line mode using RMS. The HQI on-line processing was extended to all FBI case clarifications and training began for single station processing and FBI News Search functions.

Software to process field office Freedom of Information-Privacy Act requests/referrals at FBIHQ was implemented. This software has allowed the FBI to be more accurate in reporting field requests to the Congress.

The second phase of the Interstate Identification Index (III) was successfully tested with 14 participating states. This program decentralizes state criminal history records, thereby preserving state control over the dissemination of its data. The number of records under III increased to more than 8 million (from 2 million under III's predecessor). Data quality has improved and participating states document substantial cost savings with this system.

An on-line interface between AIDS II, NCIC and III System was developed. As a result of this effort, the Identification Division was able to discontinue ident and non-ident responses to 13 state Bureau at an estimated annual cost savings of \$100,000. Additionally, states can now get immediate turnaround for responses (rap sheets) instead of waiting 3-5 days to receive them through mail.

A U.S. Secret Service (USSS) protective file was established in the NCIC system which, in the eight months of its existence, provided information concerning 192 instances where a person adjudged a serious threat to a USSS protectee came in contact with the criminal justice system (file size varied between approximately 85-95 records).

The Unidentified Person's File was implemented within NCIC as a national repository of data on unidentified bodies. Modifications were made to the Missing Person File and a cross-matching capability between the two files was developed. The latter file was expanded to include detailed dental information.

The FBI recorded, billed, and tracked 677,279 local and state licensing agencies' fingerprint cards through the User Fee System and collected \$7,502,764 for services rendered in this regard.

The Identification Division was provided the capability to perform on-line queries of the AIDS-II and AIDS-III data bases. This capability eliminates manual name searches and provides an immediate fingerprint search capability.

The Biological Fluids and the Standard Ammunition Files for the Laboratory Division were implemented. These files are now providing the Laboratory Division valuable information to support testimony and research where specimens such as blood, semen, saliva, bullets, and shotshells are involved.

A terminal and communications line was installed to provide the Institutional Research and Development Unit at Quantico on-line access to statistical packages. This support has significantly decreased the time and work effort required to complete statistical studies.

The Forfeiture and Seizure Subsystem was developed and implemented as a part of FOIMS. This application is currently operated at FBIHQ; however, selected information processing activities will be distributed to FBI field offices as FOIMS is implemented within each division.

A data administrator, specifically chartered to implement the principles of data resource management was selected. A common set of data elements was defined and an interim standard index structure for FBI-wide implementation was developed. An interdisciplinary team developed standards, policies, and procedures for uniformly accessing the FBI data base through the standard intelligent terminals. Data Base Design Review Boards were conducted to insure adherence to the approved Long-Range Plan and appropriate standards and policies.

A certified information systems auditor was hired to develop a comprehensive program to insure auditability of the FBI's systems, conduct selected audits, provide guidance to the NCIC Audit Staff, and serve as a professional advisor to the Assistant Director of the Technical Services Division. Audit policy and standards and a charter have been developed and approved. Staff positions have been established and candidates selected. An audit was conducted of FBIHQ Computer Center.

The installation of 1,043 standard, intelligent, computer terminals has permitted field offices to initiate automated processing of investigative information without first requesting analysis and programming support from FBIHQ. These terminals will be fully integrated into FBI investigative support systems such as CCIS and ISIS.

The Secure Teletype System (STS) was expanded to the El Paso Intelligence Center (EPIC) and two resident agencies of the Butte Office to support a high priority terrorism investigation. Direct on-line secure teletype service which provides improved communications using the U.S. Department of State upgraded network for diplomatic telecommunications was provided to Legal Attache Offices in London, Bonn, and Ottawa.

All Headquarters network hardware for the Secure Automated Message Network (SAMNET), which replaces the STS, was installed and tested in preparation for scheduled implementation of SAMNET in the test bed offices of Richmond, Alexandria, Washington Field Office, Baltimore and New York.

The Data Base Administration (DBA) functions were consolidated. This eliminated duplication of functions and provided a single organizational element to espouse policies, procedures, and standards for the DBA. This move also insured that dedicated resources were used to effectively design and implement a distributed data architecture as called for by the Long-Range Automation Strategy.

A Standard Terminal Automation Team (STAT) was established to develop policies, procedures, and technical interfaces to implement the standard terminal uniformly across all systems and integrate this device (as mandated by Long-Range Automation Strategy) into the FBI's automation environment. This move placed software acquisition, system configuration, and problem resolution in a single group thus precluding duplication in acquiring software and in reporting problems.

Direct on-line secure teletype service was expanded to four additional Legal Attaches--Tokyo, London, Bonn, and Ottawa.

A local area network was engineered for Quantico and provided a gateway to the mainframes/ADMBAS files at FBIHQ to provide user access to the Training Division Support System.

The Secure Computer Application Network (SCAN) circuitry was expanded to support the accelerated implementation of FODMS, the planned installation of existing investigation systems (ISIS, CCIS, and IIS) and to allow migration to a single SNA Network Architecture. SCAN now provides 64 field locations and FBIHQ access to automated investigative and field office automation support.

Circuitry and hardware for the Defense Data Network (DDN) were ordered to support the implementation of the SAMNET test bed and Phase I installations. The evaluation of proposals was completed and the contract awarded for the special communications processor.

An end user micro-data base management system, RBASE 4000, was acquired for use with the standard terminal to meet the investigative needs of special agent personnel in the field. This package has been used to support investigative requirements for the Olympics, other special events, and bank failure cases.

The following software products were acquired to establish an ADBAS data base environment which will allow the FBI to evolve to a distributed data architecture as mandated by the Long-Range Automation Strategy: Predict Data Dictionary, Natural Security, latent version of Intellect, ADBAS Performance and Analysis System, ADBAS Version 5.1 to support distributed data base environment with a quality control system for testing and prototyping, and Natural Graphics.

The PREDICT Data Dictionary Data Administration and Data Base Administration environments were incorporated to enforce the use of standard data elements, data codes, and definitions and to determine data usage (throughout the FBI) for use in planning the distributed data architecture.

The Headquarters Local Area Network (HQLAN), which will provide FBIHQ users with telecommunications access to FBI automated information systems, was partially installed at FBIHQ, with completion to be expected in early 1985.

IBM's System Network Architecture (SNA) was adopted as the basis for integrating major FBIHQ and field office telecommunications systems.

A contract was established with the Institute for Defense Analysis (IDA) to support the development and implementation of Artificial Intelligence (AI) technology in support of urgent investigative initiatives such as drug enforcement and anti-corruption and labor racketeering.

Replacement telephone systems were installed in the New Orleans and Philadelphia Offices. Contracts were awarded for replacement telephone systems for the Baltimore and Charlotte Offices. Installation of Secure Telephone Units (STU-IIa) continued with 67 new installations in the field and FBIHQ. All field offices are now equipped with secure telephone communications.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Legal Attache.....	72	\$4,828	72	\$5,165	...	...

Long-Range Goal: To insure continuous and prompt exchange of information with foreign law enforcement and other agencies to enable the FBI to meet its mandated responsibilities.

Major Objectives:

To develop and maintain liaison with foreign law enforcement and other agencies.

To provide a constant and prompt exchange of information and assistance with the above agencies.

Base Program Description: All liaison with the principal foreign law enforcement and other agencies throughout the countries covered by Legal Attache are handled through continuous direct personal liaison. Investigative matters that have international ramifications are handled expeditiously by Legal Attache and coordinated through appropriate components at FBI Headquarters. Continuous contact is maintained with Embassy personnel, including representatives of other United States law enforcement and other agencies, to insure maximum coordination in effected in accomplishing overall objectives of the FBI. Domestic liaison is maintained with 25 Federal agencies.

The 13 Legal Attache posts will be staffed as follows:

POSTS	SPECIAL AGENTS	SUPPORT PERSONNEL
<u>Europe</u>		
Bern	2	1
Bonn	4	4
London	3	3
Paris	3	2
Rome	3	3
<u>Latin America</u>		
Bogota	2	2
Montevideo	1	1
Mexico City	4	4
Panama City	1	1

<u>POSTS</u>	<u>SPECIAL AGENTS</u>	<u>SUPPORT PERSONNEL</u>
<u>Far East</u>		
Tokyo	1	1
<u>SE Asia/Pacific</u>		
Hong Kong	1	1
Canberra	1	1
<u>North America</u>		
Ottawa	3	3
Training Legat	2	1
FBIHQ Liaison Unit	5	8
Total	36	36

With the current level appropriation at 72 positions, 36 will be staffed with special agents. The two special agent and one support positions for training at FBI Headquarters are essential for filling vacancies during normal shifting and transfer of personnel at various Legal Attache posts. These training positions are designed to enable a smooth and continuous operation of all 13 Legal Attache posts. The three special agent and two support positions in the Liaison Unit responsible for domestic liaison maintain contact with 25 United States Federal agencies. The support position in this unit responsible for Foreign Police Cooperation matters handle approximately 100 new cases per month.

Accomplishments and Workload: The following table reflects accomplishments of the Legal Attache program where in Legal Attache offices are actually involved and do not include name check requests:

Item	1983	1984	Estimates	
	1983	1984	1985	1986
Investigative matters received	7,700	8,000	8,200	8,500
Number of foreign law enforcement and other agencies with which liaison maintained	215	225	225	230
Assistance in Foreign Police Cooperation cases	3,150	3,300	3,400	3,600
Value of items located abroad (\$000)	\$17,459	\$18,000	\$19,000	\$19,000

It is noted the Legal Attache officer's primary function is of a service nature, to assist and facilitate the fulfillment of the overall responsibilities of the FBI. Their performance, particularly in regard to the areas of organized crime, white-collar crimes, narcotics, terrorism and Foreign Counterintelligence, can only be measured in terms of the quality and timeliness of information exchanged with foreign contacts and its effects upon domestic investigations conducted by the FBI and other United States agencies to which this information is disseminated.

The following are examples of qualitative performance measures of this program, indicating the significant role played by the Legal Attaches in the FBI's overall program:

- 1) In two white-collar crime investigations during the past fiscal year, Legal Attache, Paris, France, aided in the recovery in France of stolen and counterfeit United States securities totaling over \$7 million.
- 2) Legal Attache, Bern, Switzerland, aided in the identification of subjects involved in a white-collar crime investigation involving the conversion/note in Switzerland of stolen United States stock certificates worth several million dollars.
- 3) Legal Attache, London, England, coordinated a Joint FBI/Republic of Ireland police investigation involving subjects who participated in a number of bombings in England. Two of the subjects have been convicted in the Republic of Ireland, and four subjects were convicted in the United States concerning their pro-Irish Republican Army terrorist activities.
- 4) Legal Attache, Rome, Italy, participated in coordinating the investigation of the activities of Michele Sindona, an Italian financier connected with the failure of the Franklin National Bank of New York. Sindona and four associates were convicted in the United States in connection with Sindona's false kidnapping.
- 5) Legal Attache, Rome, Italy, through contact with appropriate Italian authorities, identified the source of certain heroin smuggled from Italy to the United States, resulting in the seizure of 25 kilos of heroin and the arrest of seven individuals in the United States. Two Italian subjects were also arrested by Italian authorities and additional arrests are anticipated based on this joint investigation.
- 6) Legal Attache, Bogota, Colombia, participated in developing information in Venezuela resulting in the arrest of a subject responsible for defrauding two banks of over \$7 million.
- 7) Legal Attache, Ottawa, Canada, has coordinated a joint United States/Canadian task force investigation of heroin trafficking in Eastern North America resulting in the indictments of seven individuals in New Haven, Connecticut.
- 8) Legal Attache, Panama City, Panama, in acting as an advisor and consultant to the American Embassy, San Salvador, El Salvador, in the investigation of the assassination of United States personnel and private citizens in El Salvador.
- 9) Legal Attache, Montevideo, Uruguay, coordinated a white-collar crime investigation resulting in the arrests in Buenos Aires, Argentina, of two subjects responsible for defrauding United States banks of \$4 million.
- 10) Legal Attache, Tokyo, Japan, is involved in coordinating a joint United States/Japanese investigation of the Japanese "Yakuza" organized crime family operating in Japan and Honolulu.



1985 Appropriation Anticipated	1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount
Records Management.....	1,288	1,247	1,288	1,247	1,288	1,247	...	...

Long-Range Goal: To support FBI investigative and administrative operations through timely and accurate records processing, filing, maintenance and retrieval services; to respond to requests under the Name Check Program; to insure the safeguarding of national security information; to support the Field Office Information Management System (FOIMS); and to facilitate lawful public access to FBI records in response to Freedom of Information and Privacy Act requests.

Major Objectives:

To complete the conversion of the FBIHQ active index to a machine-readable, on-line mode in order to facilitate searching capabilities in the Main Card Searching and Name Searching program and to support the Field Office Information Management System (FOIMS).

To complete the phased implementation of single-station processing of mail, which will result in an item of mail being classified, searched, serialized, and recorded at one station.

To manage a complex program for FBIHQ and the field to dispose of duplicate and nonessential record material, microfilm historical records that require permanent retention, and prepare appropriate records for accession to the National Archives.

To maintain, repair, and store a large volume of hard-copy files in an efficient manner.

To insure that mail is routed, classified, searched, serialized, corrected, and recorded promptly and to provide mailing, courier, and messenger services in a cost-effective manner.

To provide file review, name searches, and locate services accurately in response to name-check requests received from Executive Branch agencies and FBIHQ divisions.

To articulate, justify, and defend the FBI's position for withholding national security information in FBI files by implementing quality control procedures and to seek compliance with Executive Order 12356 and Department of Justice directives by filing affidavits/declarations in response to Freedom of Information Act (FOIA) civil law actions.

To classify and protect national security information and informants, or declassify information in FBI documents which are sought through FOI/PA individual requests and court actions.

Respond to administrative Freedom of Information/Privacy Act (FOI/PA) appeals by reviewing classification decisions applied to FBI documents, which contain national security information, and to insure that the national security information withheld meets the substantive and procedural requirements of the current Executive Order and DOJ implementing directives.

To insure that individuals requesting security clearances meet eligibility requirements and criteria for continued Federal employment and to conduct training seminars for FBI personnel in the areas of safeguarding national security information.

Provide correct, prompt, and complete responses to FOI/PA requests and to train and direct FBI personnel at FBIHQ and in the field offices to fulfill responsibilities mandated by the Act.

#### Base Program Description:

The Records Section is composed of four units: The Records Maintenance Unit, the Records Processing Unit, the Records Research Unit, and the Special Records and Filing Unit. The Records Maintenance Unit is responsible for the consolidation and correction of FBI Headquarters records; facilities management, including the maintenance of the FBI Headquarters automated mail systems and file retrieval equipment; the maintenance of the general index; mail management; the dispatching of all outgoing FBI Headquarters mail; and the maintenance of FBI Headquarters files in the Personnel Records Subunit. The Records Processing Unit is responsible for the processing of all FBI Headquarters correspondence. This unit is also responsible for implementing records-processing procedures for FBI Headquarters correspondence. The Records Research Unit is responsible for duplication matters; field office matters; the Forms and Reports Management Desk; the Manual Desk; the micrographics program; and records disposition and archival matters. The Special Records and Filing Unit is responsible for the maintenance of the Electronic Surveillance (ELSUR) index and the promulgation of administrative ELSUR policy and the maintenance of all FBI files, including material maintained in the Special File Room Subunit. This unit is also responsible for the processing and control of all Top Secret/Sensitive Compartmented Information Documents at FBI Headquarters.

The Operations Section coordinates divisional personnel matters, training matters and word processing; coordinates divisional budget submissions to the Department of Justice, Office of Management and Budget, and the Congress; monitors the productivity and the financial status of the division; and provides automated name searches and file review of information disseminated from FBI files to authorized agencies. The FBI Security Program manager has overall responsibility for the implementation and administration of designated Department of Justice Security Program and handles all matters pertaining to the protection of National Security Information and issuance of security clearances. Additionally, the Section is responsible for conducting classification reviews of documents proposed for release outside the FBI for the purpose of safeguarding National Security Information; processing National Security classification appeals matters; preparation of affidavits concerning National Security Information proposed for release pursuant to litigation and/or civil discovery; and review and preparation of records for accession of material to National Archives and Records Service.

The FOI/PA Section responds to requests for access to FBI records as required by the Freedom of Information and Privacy Acts. This Section identifies, collates, reviews, excises, duplicates, and discloses records as authorized by the FOI/PA.

## Accomplishments and Workload:

Item	1983	1984	1985	Estimates	1986
Mail classified	1,715,284	1,522,889	1,500,000	1,500,000	1,485,000
Mail searched	426,569	449,818	454,960	454,960	465,000
Mail recorded	1,140,463	1,171,679	1,140,700	1,140,700	1,140,000
Mail filed	1,422,991	1,287,901	1,200,100	1,200,100	1,200,000
Index cards filed	1,170,573	1,170,131	900,000	900,000	450,000
Files pulled	590,959	529,965	530,500	530,500	530,500
Name checks handled	2,173,431	2,103,756	2,451,819	2,451,819	2,300,000
Pages filmed	777,702	705,164	700,000	700,000	700,000
Mail dispatched	5,344,831	3,947,771	3,900,000	3,900,000	3,900,000
Duplicate deletes	135,639	68,966	75,000	75,000	90,000
Alphabet converted	13*	35*	60*	60*	100*
Security investigation and personnel security reviews	21,183	21,485	22,000	22,000	24,000
Quality control for document security awareness	57,893	62,453	75,000	75,000	60,000
Pages reviewed for classification	944,555	726,979	503,010	503,010	503,010
Pages reviewed for FOIA national security affidavits/declarations	658,049	456,937	255,000	255,000	212,500
Pages reviewed for administrative appeals	90,374	348,071	297,500	297,500	340,000
*Main cards only.					
FOI/PA PROGRAM					
No record and/or other administrative closings	7,493	7,703	7,346	7,346	7,184
Requests processed with identifiable records released or denied	4,094	4,303	4,283	4,283	4,283
Total requests handled	11,587	12,006	11,629	11,629	11,467
Appeals completed	1,021	1,003	975	975	967
Correction amendment requests resolved	69	82	65	65	80
Litigation matters completed	149	160	119	119	105

#### Records Program:

The Records Section has continued with the project of converting the active index to a machine-readable format. The Data Recording Subunit has converted 6,320 cards (approximately 35 percent of the active index based on approximately eighteen million cards in the active index), and completed the deletion and consolidation of 863,358 erroneous and/or duplicate data, of which there are over 1.5 million records. This subunit implemented the processing of all classifications through the on-line system. Five on-line and four batch mode computer subsystems have been installed in the Data Recording Subunit.

Through the initiatives of the FBI mail manager, the Records Section instituted measures which resulted in savings of \$354,087 in mailing costs during 1984.

Through the monitoring of the FBI's duplication program, the Records Section realized direct savings to the FBI of over \$289,780 during 1984. In addition, the Records Section has formulated a plan which will result in savings of \$1,567,866 in the duplication program over a five-year period.

Representatives of the Records Section established a records system for the President's Commission on Organized Crime.

The Records Section, acting in conjunction with the Technical Services Division, standardized indexing procedures between FBIHQ and the field to permit the implementation of course data entry in the field in connection with FOIMS. In this connection, a comprehensive, detailed indexing manual was published and distributed to the field. Regional seminars are now being conducted by representatives of the Records Section to assist the field in assimilating changes in indexing procedures to prepare for the implementation of FOIMS.

The Records Section implemented a micrographic program for the Legal Attaches and took necessary action to procure microfiche readers for the Legal Attaches. A comprehensive training program for special agent and support personnel assigned to Legal Attache offices has been implemented.

The Records Section has taken steps to automate the control of Top Secret/Sensitive Compartmented Information documents, which will increase security and accountability for these documents.

During 1984, the Records Section conducted two regional training seminars for the field in electronic surveillance procedures.

The Records Section initiated procedures for the single station processing of FBIHQ mail. A single station pilot program is now operational and will eventually lead to the consolidation of various records-processing subunits.

Representatives of the Records Section provided on-site assistance to the Boston Field Office in connection with the implementation of FOIMS.

In 1984, the Document Classification Unit (DCU) reviewed and/or processed 726,979 pages of FBI documents pertaining to FOI/PA requests. A total of 1,040,776 pages was photocopied to support the notification process which advises of classification changes. The informant clerk researched 6,253 informants, and team captain made the determination concerning the classification of 8,807 sources.

In 1984, the Classification Appeals and Affidavits Unit (CAU) reviewed 348,071 pages of FOI/PA administrative appeals, mandatory reviews, initial requests to the Attorney General, and requests by other executive agencies for systematic declassification reviews; 15,615 pages of FBI records in completing the processing of administrative appeals; and 456,937 pages of FBI records in response to FOI/PA litigation.

In 1984, the Operations Section disseminated information contained in the central files of the FBI in response to approximately two million various name check requests from Executive Branch agencies, certain Congressional committees, the Federal Judiciary, friendly foreign police and intelligence agencies, and authorized state and local agencies within the criminal justice system. The release of information to outside agencies, coupled with essential searches and file reviews for FBI investigative purposes, required approximately 6 million name searches and reviewing of over 1.3 million files.

The Operations Section (Security Program Office) conducted 3,637 security investigations and 17,848 personnel security reviews; provided training in the areas of document classification, personnel, communications, and security awareness to 3,400 employees; conducted quality control reviews of over 62,453 pages of FBI documents to insure substantive and procedural compliance with Executive Order 12356; and verified the security clearances of 2,405 FBI and non-FBI personnel.

#### FOI/PA Program

During 1984, the FOI/PA Section received 11,503 new requests. At the same time, 5,464 requests involving identifiable records were assigned for processing. A total of 12,006 requests were processed, 1,003 administrative appeals were finalized, 82 correction/assessment requests handled, and 160 litigated matters resolved.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perma.	WY	Amount	Perma.	WY	Amount	Perma.	WY	Amount	Perma.	WY
Technical Field Support											
and Equipment.....	147	143	\$94,912	147	144	\$60,885	147	144	\$60,885	...	...

Long-Range Goal: To provide essential technical support and equipment to the FBI field offices and conduct necessary research and development to maintain a level of technology higher than that of foreign and domestic adversaries.

Major Objectives: To develop a Technical Field Support and Equipment long-range plan including an overall strategic outlook and tactical acquisition and implementation plans for each of the various programs within the division unit.

To provide centralized management of the FBI's FM radio communications systems.

To implement security features such as voice privacy in the FM radio communications systems.

To provide and maintain safe, reliable and effective passenger-carrying automobiles and special purpose vehicles by replacing vehicles which have reached the end of their useful life.

To provide technical expertise in the examination of electronic-related evidence such as recordings and communications interception devices and to provide expert court testimony relating to these examinations.

To replace the field's inventory of audio collection and recording equipment, audio analysis equipment, physical surveillance equipment, physical security and countermeasures equipment, firearm and tactical equipment, photographic equipment, crime-scene examination equipment, furniture, general office equipment, emergency operating facility equipment, and automotive maintenance equipment as it reaches the end of its useful life.

To provide the field with sophisticated technical equipment and on-site technical support required to support the FBI's complex and demanding investigative activities.

To insure the physical security of FBI facilities and to satisfy the requests of the Department of Justice and other agencies for electronic "nipples."

To conduct research and development efforts regarding new technical capabilities applicable to the FBI's investigative missions.

To increase recruitment efforts and to provide training for the Technically Trained Agents and Electronic Technicians in order to upgrade their skills and keep them current on new technology and techniques.

Base Program Description: This program provides technical investigative support to the field and maintains centralized management of all field equipment to maximize utilization and expedite the completion of complicated investigative matters. Frequently, investigative objectives could not be met without sophisticated technical support. Virtually all field investigative programs are dependent upon the technical support and services provided by this program.

The primary thrust of this program is the development, design, engineering, procurement, distribution, and installation of technical support equipment required to assist in the successful accomplishment of the FBI's criminal investigative and ROI missions and the provision of adequate personnel to install, maintain, and assist in the operation of that equipment. All field equipment falls into the following major categories:

Radio Communications Program: Most FBI investigative efforts require the utilization of FM radio communications facilities to effectively conduct activities. This program is responsible for overall management of the system which includes handling all frequency management functions for the FBI and related functions for other Department of Justice components and the evaluation and implementation of appropriate security features such as voice privacy.

**Research and Development:** The JPCS's research and development program is responsible for three broad functions: technology assessment and evaluation, general engineering support, and program management of research and development projects. This decision unit must continue its research and development efforts to maintain a level of technology sufficient to overcome the Nation's foreign and domestic adversaries.

**Audio Collection and Recording Equipment:** This category of equipment is primarily utilized to support the FBI's Organized Crime Programs. This program coordinates both the installation of equipment and the operation of the FBI's central monitoring plants.

**Physical Surveillance Equipment:** This category of equipment supports the physical observation of subjects of organized and white-collar crime investigations, kidnappings, extortions, and other criminal activity to facilitate the identification and apprehension of subjects, the protection of victims, and the collection of documentary evidence to successfully prosecute offenders.

**Physical Security and Countermeasures Equipment:** This category of equipment includes Closed Circuit Television (CCTV) equipment and electronic tent equipment to detect unauthorized audio-collection devices. The best available equipment is used to "sweep" the facilities of the FBI and other Government agencies to insure freedom from clandestine listening devices.

**Firearms and Tactical Equipment:** This category of equipment includes handguns, shotguns, rifles, and scopes, in addition to special equipment for the field Special Weapons and Tactics (SWAT) teams.

**Photographic, Photographic Laboratory, and Crime-Scene Examination Equipment:** This category includes cameras, lenses, and technical equipment to collect physical evidence at the scenes of crimes. Also included is field equipment necessary to support the development and printing of photographs.

**Furniture and Office Equipment:** The FBI must replace field office furniture and office equipment reaching the end of its useful life.

**Passenger-Carrying Automobiles:** The FBI's General Investigative automotive fleet currently consists of 5,778 vehicles and is driven in excess of 100 million miles per year. The General Services Administration (GSA) sets replacement standards of six years or 60,000 miles, whichever occurs first; however, the FBI evaluates the actual operating condition and repair history of each vehicle prior to arriving at a decision to replace the automobile.

**Surveillance and Utility Vehicles:** Vans, trucks, and utility vehicles are used for surveillance and investigative support activities. The increase in both the complexity of cases and the number of electronic surveillance cases has precipitated requirements for additional surveillance and utility vehicles.

**Audio Analysis Equipment:** This program examines evidence pertaining to the interception of communications and audio signals. Requests for audio forensic examinations are received from the FBI field offices and other Federal, state, and local law enforcement agencies.

**Accomplishments and Workload:** Installation of a complete radio voice privacy system for the Los Angeles office has been completed. Installation of systems for New York, Chicago, Boston, Miami, and Washington Field offices are underway with estimated completion in the Spring of 1985. A contract for radio voice privacy systems has been awarded for the Detroit, Cleveland, Las Vegas, Baltimore, Philadelphia, Newark, Pittsburgh, Kansas City, San Francisco, St. Louis, New Haven, San Juan, Albany, Buffalo, Atlanta, Dallas, and Houston offices.

A cost/benefit analysis of the digital voice privacy system was prepared.

The Engineering Section has moved to a temporary site in Newington, Virginia, to accommodate its growing staff and expand its ability to furnish rapid, state-of-the-art technical assistance to priority FBI missions. The Section has initiated the design of a new permanent facility at Quantico, Virginia. Current plans call for the completion of this facility for the Fall of 1988, which will employ the latest, cost-effective, computer-based aids for the design and production of technical equipment. The Engineering Section Staff has been augmented through an aggressive, selective recruitment effort that has brought to the Section well-qualified technical personnel that will further the mission of the Section.

The FBI continued to use its expertise in forensic examinations of taped conversations and magnetic tape to support FBI and other Federal, state, and local law enforcement requirements. This expertise is considered to be the best in the world. Over 3,000 recordings were enhanced to facilitate recovery of intelligence and support expert testimony was given in 52 cases.

The FBI has substantially improved the overall management of its vehicular fleet by consolidating all fleet related administrative matters into one centralized organizational entity staffed by professional fleet administrators. The FBI has the most advanced computerized information system in the Federal Government which can provide instantaneous inventory and operating cost data to management personnel. Field managers are also provided quarterly automotive reports setting forth both fuel and maintenance costs for each vehicle assigned to their respective offices. Procurement activities have been streamlined reducing unnecessary paper flow and resulting in the delivery of new vehicles much earlier in the model year. An aggressive training program for Automotive Maintenance Employees has been implemented to insure proficiency with the new computer operated engine systems and front-wheel drive vehicles. FBI maintenance facilities have been re-equipped with the newest diagnostic equipment and certified by General Motors Corporation and Ford Motor Company to perform in-house warranty repairs. A rigorous preventive maintenance program has been established that has resulted in a decline in maintenance costs.

In 1984, 38 Technically Trained Agents received two weeks of instructions on Technical Support Countermeasures (TSCM) subjects and techniques. They were also trained in the use of the FBI's current TSCM equipment. In addition, two Technically Trained Agents received six weeks of enhanced TSCM training. Also, twelve DEA agents were trained and certified.

On-site technical assistance was provided to the field offices and technical support to undercover operations continued. Each of the FBI's major undercover operations was supported by some type of technical support which included video, audio and/or surveillance equipment. The use of such equipment is vital to obtaining critical evidence necessary to sustain a conviction.



Activity: State and Local Assistance	1985 Appropriation			1985 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount

General Law Enforcement Training.. 283 275 \$15,209 283 275 \$16,134 283 275 \$16,134 ... ..  
Forensic Services - Non-Federal... 122 119 7,897 122 119 7,916 122 119 7,916 ... ..  
Fingerprint Identification..... 2,573 2,585 78,646 2,573 2,585 72,746 2,573 2,585 72,746 ... ..  
Criminal Justice Data  
and Statistics Services..... 204 199 7,596 204 199 7,896 204 199 7,896 ... ..  
Total..... 3,182 3,178 109,448 3,182 3,178 104,692 3,182 3,178 104,692 ... ..

This activity supports state and local law enforcement by providing training and furnishing laboratory, identification, and informational services. The FBI National Academy, the National Crime Information Center (NCIC), and the Uniform Crime Reporting (UCR) programs are but a few of the services funded under this activity.

Activity: State and Local Assistance	1985 Appropriation			1985 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount

General Law Enforcement Training..... 283 275 \$15,209 283 275 \$16,134 283 275 \$16,134 ... ..

Long-Range Goal: To improve the investigative, managerial, and technical capabilities of local, county, and state law enforcement personnel through the process of training and education.

Major Objectives:

- To continue to provide training to 1,000 state and local law enforcement officers annually in the FBI National Academy Program.
- To scientifically identify training needs at the state and local level through a Nationwide Law Enforcement Training Needs Assessment Program.
- To provide timely training program on issues of critical concern to the law enforcement community both in the field and at the FBI Academy.
- To train local police officers to become qualified instructors.

- To conduct approximately 345 advanced schools annually by FBI Academy personnel in support of the Field Police Training Program.
- To continue the necessary research, refinement, and dissemination of criminal personality profiles and violent crime related information in order to assist local law enforcement agencies in the resolution of major crimes of violence.
- To continue instructional emphasis on violent crime matters using existing and developing systems.
- To operate and promote a National Center for the Analysis of Violent Crime (NCAVC), to administer and coordinate research, training, and investigative support programs designed to assist the law enforcement community in its investigation of violent crimes which are particularly unusual, bizarre, and vicious.
- To participate in one sectional and 35 FBI National Academy retraining sessions for the 47 Chapters of the FBI National Academy Associates.
- To maintain the Field Police Training Program at a level of 64,367 hours of instruction for 182,226 police officers.
- To continue to publish scholarly articles by Academy personnel on a wide variety of subjects of concern to the local law enforcement community.
- To provide, on a limited basis, training in basic criminal investigative matters to foreign police in the Caribbean area and in the Pacific Islands Trust Territories.
- To conduct the FBI National Law Institute for the instruction of Federal, state, and local legal advisors.

**Base Program Description:** The General Law Enforcement Training mission of the FBI is achieved by the interaction of diverse programs offered at the FBI Academy and through the Field Police Training Program (FPTP). The FBI Academy offers a wide variety of training programs which are made available at no cost to selected criminal justice personnel. The courses range from highly technical one-week programs to the eleven-week National Academy program. Through the process of identifying training needs, the Academy staff conducts research, establishes program objectives, and develops courses of instruction to meet the identified training needs. For example, the need for executive training led to the development of the National Executive Institute (NEI) (1976), and the Law Enforcement Executive Development Seminar (LEEDS) (1981). Both programs, in conjunction with the National Academy, help alleviate the critical lack of management training in law enforcement agencies. Other examples to address recently identified needs of state and local law enforcement include the National Center for the Analysis of Violent Crime (NCAVC) and the FBI National Law Institute. FBI Academy also meets the needs of the local law enforcement community in through constant research in identified law enforcement problem areas. This has resulted in staff members becoming authorities in their respective fields. In this role, advice is disseminated daily on such diverse matters as homicide, crime management, and the investigation of complicated economic crimes.

In regard to the FBI's Field Police Training Program, over 2,000 trained FBI instructors assigned to the 59 FBI field offices participate in local police training programs throughout the nation. This training assistance at the basic level is extensive and is the backbone of FBI training assistance to local law enforcement. It is at this level of training that the rapport between local police and FBI Special Agents is developed, which fosters cooperative efforts between these agencies in the investigation of criminal cases.

**Accomplishments and Workload:** During 1984, 55,910 student training days were dedicated to the National Academy and other executive development training programs for local law enforcement managers. The National Academy Program, which provides eleven weeks of advanced instruction to career law enforcement professionals, comprised of four sessions in 1984, with 1,000 officers participating in this training. An additional 25 police chief executives attended the FBI National Executive Institute (NEI). Demands for additional executive training led to the implementation of the Law Enforcement Executive Development Seminar (LEEDS) in 1981. This particular executive training program, which is designed for executives from mid-sized agencies, trained 80 chief executives in 1984. With the formulation and implementation of LEEDS, the FBI is currently in a position to offer a comprehensive executive development program for the entire law enforcement community. During 1984, 83 Drug Enforcement Administration (DEA) supervisory personnel received advanced management training at the FBI Academy.

In 1984, approximately 23,317 student training days were dedicated to specialized and technical programs, which included 176 specialized schools, working conferences, or symposia attended by 5,074 criminal justice personnel. In addition to the 33 diverse forensic science courses offered to the general law enforcement community in 1984, the following highly specialized training programs were also conducted in the Forensic Science Research and Training Center: International Symposium on Electrophoresis for 129 attendees; International Symposium on the Analysis and Identification of Polymers for 90 scientists; Police Artist Technical Planning Conference for 13 practicing police artists; and an Advanced Polygraph Studies Program for selected police technicians.

Additional specialized courses were offered which included seminars on computer-related crimes for 129 police officers; Bomb Squad Commanders' Seminar for 64 officials; five Hostage Negotiation sessions for 75 police officials; a National Conference on Police Psychological Services for 100 mental health professionals serving local police agencies; and two joint training sessions with Special Weapons and Tactics (SWAT) teams representing the Los Angeles Police Department and the Los Angeles Sheriff's Office. Significant efforts in the violent crime area included a National Symposium on Sexual Assault for 75 criminal justice personnel; a Sexual Exploitation of Children Seminar designed to orient attendees to assist local law enforcement agencies; a one-day conference for 43 police officials in the area of child pornography and sexual exploitation of children; and the implementation of advanced courses in death investigation and sexual assault investigations. In addition to these training initiatives, every effort was made in 1984 to reinforce cooperative ties with numerous national law enforcement groups and organizations who have traditionally utilized FBI Academy facilities as a problem solving forum. These include the Executive Board of the National Organization of Black Law Enforcement Executives, Training and Education Committee of the International Association of Chiefs of Police (IACP), Major City Administrators of IACP, National Sheriff's Association (NSA), Joint FBI/IACP advanced legal training seminars, American Association of Crime Laboratory Directors (AACLD), and two working sessions by the American Association of Retired Persons (AARP) on Tactical Crime Analysis and Citizen Participation.

In addition to the specialized and technical training programs offered at the FBI Academy, 62,358 student training days in 1984 were made available to training programs conducted at state and regional training facilities. This included sophisticated and advanced training for 24,156 law enforcement officials in such areas as forensic science, criminal psychology, labor relations, instructor development, and executive development, as well as the training of 680 students in bombing and hazardous device matters.

Training programs continue to make contributions in support of state and local investigations of crimes of violence. There was an increased demand in 1984 for Behavioral Science Unit Crime Analysis and Criminal Personality Profiling and general investigative support and consultation. Assistance was requested in a total of 322 matters as compared to a total of 304 requests in 1983. This increase in demand can be better understood by comparing the above figures with those of five years ago when there was a total of 40 requests. The Behavioral Science Unit has also observed that the degree of involvement in investigative matters has increased in intensity and duration. The scope of assistance rendered has expanded from crime analysis and profile construction to planning investigative strategies and apprehensions, developing interviewing techniques, preparing search warrants, developing prosecutive strategies, and providing "on-site" major case training and consultation. Cases received for analysis and profiling in 1984 included those of 1,024 victims. State and local police cooperation cases submitted included those of homicide, rape, child molestation, arson, robbery, abduction, aggravated harassment, and threats. Feedback from requesting agencies revealed that the Behavioral Science Unit assisted in the identification and/or prosecution of offenders responsible for 66 homicides, 60 rapes and sexual assaults, 45 arsons, and 8 child molestations. In June of 1984, an interagency transfer of funds was made for the development of the NCAVO. This center is expected to become operational by June 1985, at which time it will analyze, by computer, all unsolved homicides occurring in the United States from that time forward. In 1986, the NCAVO will be able to analyze, by computer, all unsolved serial rape and multiple victim child molestation crimes. By 1987, the crime of aerial arson will also be added to the NCAVO computerized analysis list.

During 1984, at the same personnel level as 1983, the FBI's Field Police Training Program (FPTP) provided 64,367 hours of instruction at 5,705 schools attended by 182,226 local, county, and state criminal justice personnel.

Instructional assistance by the FBI involves several levels of activity. At the recruit level, training is provided in such areas as constitutional law, civil rights, arrest techniques, firearms and defensive tactics, rules of evidence, search and seizure, and interviewing. At the in-service level, more advanced topics are presented, such as investigative techniques for detectives or fingerprint classification for identification officers. At the specialized level, programs such as hostage negotiation techniques, criminal psychology, anti-sniper and survival techniques, and bomb technician training are provided. At the supervisory and executive levels, training is provided in areas such as personnel administration, communication, management skills, planning, allocation of personnel, and budgeting.

In addition to providing classroom training, at the request of local agencies FPTP personnel frequently assist in developing training programs, in determining training needs, developing curricula, and finding instructional aids and resources. In many states, legislation has been passed mandating that representatives from the FBI serve on training commissions.

During 1982, the FBI began a pilot program in Puerto Rico to train United States and foreign police officers from the Caribbean area in basic criminal investigative matters. The training program is now an established FBI school called the Caribbean Police School and was offered twice during 1982, twice in 1983, and twice in 1984, for four weeks each. During the six sessions, 137 mid-management officers were trained as follows: 26 from Puerto Rico, 10 from the United States Virgin Islands, 21 from the United States Navy and United States Army, and 80 from 16 different foreign countries.

An important benefit of the FBI's General Law Enforcement Training Program, both at the FBI Academy and through the 59 field offices, is the cooperation it engenders from local, county, and state law enforcement agencies. This is especially important, in terms of efficiency, economy, and safety, for the numerous special agents who work in the FBI's widely dispersed small resident agencies. In this area, local law enforcement agencies offer the primary, and frequently only, source of immediate aid and assistance in investigative and apprehension situations.

	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease		
	Perm.	NY Amount	Perm.	NY Amount	Perm.	NY Amount	Perm.	NY Amount	
Forensic Services - Non-Federal.....	122	119	\$7,897	122	119	\$7,916	122	119	\$7,916

Long-Range Goal: To support the non-Federal criminal justice system through a program which provides: specialized forensic science training to crime laboratory personnel, crime-scene training to law enforcement personnel, and cost-free examination of evidence and necessary court testimony for agencies which do not have access to crime laboratories or in complex cases which are beyond the capability of the local laboratory.

Major Objectives:

To fully utilize the Forensic Science Research and Training Center (FSRTC) to train additional state and local crime laboratory personnel to improve the ability of jurisdictional laboratories to keep pace with the rising forensic examination caseload.

To share the results of successful forensic science research projects with state and local crime laboratories.

To provide a means for the Nation's crime laboratories to rapidly share ideas and information.

To maintain leadership in the crime laboratory community by hosting the "Annual Symposium on Crime Laboratory Development" and other scientific symposia and through participation in various other scientific meetings and symposia.

To provide professional and expeditious handling of requests for examination of physical evidence and sound, objective, expert testimony in cases submitted by state and local law enforcement agencies which meet the criteria for FBI Laboratory examination.

Base Program Description: The FSRTC uniquely combines forensic science research with forensic science training in a physical plant which has been painstakingly designed and equipped to meet the rigorous requirements of these activities. Federal, state, and local crime laboratory and law enforcement personnel receive training in courses which have been carefully selected and developed after consultations throughout the law enforcement and crime laboratory communities. Many of the courses offered are not available anywhere else in the United States.

The research staff is augmented with visiting scientists from the academic community and other government agencies, and the training staff is augmented, as necessary, with experts from the FBI Laboratory. Training is normally conducted at the FSRTC; however, when there is a lack of travel funds and/or living accommodations at the FBI Academy and when proper training facilities exist, Laboratory instructors conduct specialized forensic schools in the field. Results of successful research projects are shared with the crime laboratory community.

All requests for examination involving state and local matters are carefully reviewed. It is the policy of the FBI Laboratory to return requests from state and local laboratories when it can be determined that the contributing laboratory has the capability to perform the examination. State and local law enforcement agencies are encouraged to use jurisdictional laboratories when available. However, some law enforcement agencies still do not have access to jurisdictional laboratories and even when available such laboratories often do not have the sophisticated instrumentation and/or expertise to perform the necessary examination(s).

**Accomplishments:** Actual and estimated accomplishments for the Forensic Services - Non-Federal Program are set forth in the attached exhibit. These statistics demonstrate that the specialized training to state and local crime laboratory personnel is continuing to have a stabilizing effect on the number of cases submitted to the FBI Laboratory from state and local law enforcement agencies. However, the number of examinations conducted will continue to rise due to the development of new techniques which will, in some cases, permit more examinations per specimen.

Item	1983	1984	1985	Estimated
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1. Laboratory Examinations:				
a. Requests for Examination	6,367	6,052	6,100	6,100
b. Specimens Submitted	50,549	53,360	54,000	54,000
c. Examinations Conducted	378,929	388,914	395,000	395,000
d. Days Spent in Testimony	1,273	1,230	1,250	1,250

Statistics above were captured through the Laboratory's Management Information System and indicate the actual and expected forensic examination workload.

2. Forensic Sciences Training:				
a. Students Trained in Specialized Forensic and Police Schools	838*	1,188	1,780	1,360*
b. Hours Spent on National Academy Training	3,600	3,960	3,960	3,960
c. Hours Spent on Specialized Forensic Schools	19,200	24,960	27,600	20,000*
d. Hours Devoted to Road Schools/Speeches/Lectures, Etc.	3,452	4,636	3,576	2,500*

\* The decrease in specialized school participation reflects Federal level demand for in-service training and subsequent decrease in dormitory availability for Non-Federal students.

During the past year, Laboratory assistance was provided to state and local law enforcement in several highly publicized cases. One such case, the George Michael O'Leary case involved the shooting death of a female motorist by a California Highway Patrolman. The subject O'Leary had been tried on two previous occasions. Both trials had ended in mistrials as a result of hung juries. Approximately 300 items of evidence were submitted in connection with this case. The ensuing microscopic analysis, toolmark, elemental analysis, and firearms examinations conducted in the FBI Laboratory produced sufficient evidence to convict O'Leary in the subsequent trial.

Other assistance provided to the non-Federal law enforcement community included:

- (A) "International Symposium on the Forensic Applications of Electrophoresis" held June 25-29, 1984 at the FBI Academy. The symposium was attended by 156 individuals representing 100 crime laboratories and three foreign countries.
- (B) A Gunshot Residue Seminar was held at the FBIHQ and attended by representatives of 14 crime laboratories during which analytical problems and data interpretation were discussed.
- (C) The Explosives Unit conducted an emergency crime-scene school for personnel supporting the Olympics.
- (D) The "International Symposium on Analysis and Identification of Polymers" was attended by 100 individuals throughout the United States and five foreign countries, held July 31 - August 2, 1984.
- (E) Published the Crime Laboratory Digest. This publication is intended to serve as a rapid means of communication between crime laboratories, permitting information of interest to be exchanged. Four issues are published annually and approximately 2,400 copies are distributed.
- (F) Video gambling machines presented a law enforcement problem to police agencies in 26 states. FBI Laboratory experts examined over 5,000 such machines in over 100 cases and provided court testimony when required. Additionally, Laboratory examiners appeared at 16 legislative/executive hearings regarding this problem.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Fed.	WY	Amount	Fed.	WY	Amount	Fed.	WY	Amount	Fed.	WY	Amount
Fingerprint Identification....	2,573	2,585	\$78,646	2,573	2,585	\$72,746	2,573	2,585	\$72,746	...	...	...

Long-Range Goal: To provide accurate and timely fingerprint identification and related services to Federal, state, and local criminal justice agencies, as well as other governmental agencies and entities, as mandated by Federal statutes, regulations, and executive orders.

#### Major Objectives:

- To provide for fingerprint identification and arrest-record service on a timely basis to all authorized users.
- To provide for the posting of wanted and parole/probation notices in the Division's files at the request of criminal justice agencies, and for timely notification to appropriate agencies when there is arrest activity against the posted records.
- To provide latent fingerprint examination and testimony service to Federal, state, and local law enforcement agencies.
- To provide fingerprint training to Federal, state, and local law enforcement personnel.
- To provide, as a humanitarian service, assistance to Federal, state, and local governmental authorities in the identification of missing persons and unknown deceased persons, including on-site assistance at major disasters.
- To comply with applicable statutes, regulations, court decisions, and internal operating policies to insure the completeness and accuracy of arrest records. This includes the processing of court-ordered expurgements and purge requests from contributors, as well as urging contributors to submit disposition data.
- To automate the Identification Division's work functions so as to achieve greater efficiency and personnel and operating cost savings.
- To support the development of the Interstate Identification Index (III), which is the Federal-state cooperative effort to decentralize to the states the responsibility for storing and interstate exchange of their own criminal history records.

Basic Program Description: At the turn of the century, the use of fingerprints as a positive means of identification was becoming widely accepted. It became increasingly evident, as more and more agencies began using fingerprints for identification purposes, that a national entity was needed to centralize fingerprint recordkeeping and perform fingerprint identification. This would allow an agency to make a single inquiry to determine whether a person had been previously arrested anywhere in the United States, rather than having to inquire of all criminal justice agencies. This need was fulfilled in 1924 by an Act of Congress which established the FBI's Identification Division. Since its inception, the Division has provided assistance to the criminal justice community by performing two primary functions: (1) It serves as the Nation's fingerprint identification index and (2) it compiles and disseminates criminal history records. The Division compiles criminal history records of persons arrested for serious/significant offenses from fingerprint cards and disposition reports voluntarily submitted by criminal justice agencies. Copies of these records are disseminated in response to requests from criminal justice agencies, as well as other authorized governmental agencies and entities. The Division also receives and retains on file noncriminal fingerprint cards of Federal employees, military personnel, aliens, and persons desiring to have their fingerprints on file for identification purposes. The Division's workload has grown over the years so that now it receives daily an average of 25,751 fingerprint cards and 16,115 pieces of other types of mail for processing from over 20,000 authorized users.

In serving as the Nation's repository and clearinghouse for fingerprint and arrest records, the Division must be effective and efficient. Timely responses are vital to the operation of the Nation's criminal justice system. Delays in processing criminal fingerprint cards can result in the release of fugitives before their true identities are determined, impede criminal investigations, and hamper prosecutorial, judicial, penal, and parole/probation actions. On the other hand, delays in processing applicant fingerprint cards can result in necessary losses and hardships in the employment and licensing sectors.



Between the late 1960's and the early 1980's, the volume and complexity of the Division's work increased. Although its staffing level decreased, the result was growth in the workload from an average of under 100,000 fingerprint cards to over 500,000 cards, with a corresponding lengthening in the average time to process fingerprint cards from three to 27 workdays. In order to provide the best possible support to the criminal justice community, the FBI sought and received authority to suspend certain non-Federal applicant services during 1982. The FBI also sought and obtained authority to develop a user-fee program to charge noncriminal justice/non-Federal applicant users a fee (currently \$12) for processing their fingerprint cards and to use the revenue to pay for the personnel and other related costs of providing the service. The user-fee program was implemented on October 1, 1982, at the same time that full services were restored. The suspension had the desired effect of bringing the Division's workload and average processing time down to more reasonable levels. Currently, the fingerprint card workload is averaging under 200,000 cards and the processing time is averaging 11 workdays.

The long-term solution to the Identification Division's work-processing and staffing problem is automation. Therefore, in 1967, the FBI embarked on a program of research and development of computerized equipment and techniques to automatically read and search fingerprint cards. After a study in 1971 determined the feasibility of incorporating such equipment and techniques into the Division, the FBI began a phased implementation of automation. The initial phase, known as the "Automated Identification Division System - Phase I" or "AIDS-I," was implemented in 1973 and involved the computerization of the criminal histories of first offenders. Over 8 million criminal histories have been automated to date, and the file continues to grow at the rate of over three-quarters of a million new records each year. In parallel, automatic fingerprint reading equipment was invented and then used to computerize the fingerprints stored in the Division's original master fingerprint file. Nearly 17 million original fingerprint cards are now computerized. AIDS-II was implemented in 1979 and involved the initiation of computerized name searching. Currently, over 65 percent of the Division's name searches are being performed by computer. Computerized fingerprint searching was also started on a pilot basis in 1979 and was gradually expanded until now 95 percent of all incoming fingerprint cards are searched automatically.

The next phase of automation will be the procurement of a system to be known as "AIDS-III," which will combine all of the automated capabilities developed to date into a fully integrated, high-performance system. When fully automated, the Division will be able to better fulfill its goal of providing timely fingerprint identification services and to properly support the development of the III, which in the Federal/state cooperative effort to decentralize to the states the responsibility for the recordkeeping and interstate exchange of their own criminal history records. The Division's current average work-processing time of 11 workdays is incompatible with the rapid on-line computer inquiry and response requirements of the III. The under-one-workday processing time achievable in AIDS-III would permit the Division to more efficiently carry out its III responsibilities, which include: acting as the III's national fingerprint index, acting as the "first state" by being the recordkeeper for Federal offender records; and acting as the surrogate recordkeeper for the states that do not participate in the III.

Accomplishments and Workload: The accomplishments of the Fingerprint Identification Program are presented in the following table:

Item	Fiscal Year			
	1983	1984	1985	Estimate 1986
Fingerprint Cards				
.. Criminal Justice and Federal Applicant				
.. Received.....	5,605,122	5,719,372	6,007,000	6,207,000
.. Processed.....	5,641,797	5,728,060	6,007,000	6,007,000

Item	Kontingenten		
	1983	1984	1985
• User Fee (Non-Federal Applicant)			
.. Received.....	648,843	744,129	856,000
.. Processed.....	643,582	738,153	848,000
.. Fees Received On.....	605,462	697,814	800,000
.. Revenue Earned.....	\$6,708,620	\$7,728,933	\$8,880,000
• Total All Sources			
.. Received.....	6,253,965	6,463,501	6,863,000
.. Processed.....	6,285,379	6,466,833	6,855,000
Correspondence (name checks, etc.)			
• Received.....	2,329,516	1,531,613	1,600,000
• Processed.....	2,321,377	1,505,225	1,600,000
Expedite and Special Requests Received and Processed.....	102,321	148,307	120,000
Disposition Reports			
• Received.....	1,600,465	2,531,261	2,658,000
• Processed.....	1,561,917	2,516,057	2,658,000
Expungement and Purge Requests Processed.....	198,135	312,611	338,000
Nonserious Offense Fingerprint Cards Purged.....	197,466	174,579	85,000
Fugitives Identified Through Posting of Wanted Notices.....	13,735	12,427	13,050
Latent Fingerprint Cases Processed.....	18,715	19,209	21,000
Subjects Identified by Latent Fingerprint Examinations.....	3,550	3,316	3,500
Fingerprint Schools Conducted.....	212	211	225
III Requests Received and Processed.....	107,880	237,137	270,000
Communications Mailed.....	10,946,280	8,965,029	9,331,000

During 1984, the Division processed over 6 million fingerprint cards and over 4 million pieces of other mail, for an average of 41,866 items of mail processed each workday.

The Division also performed 140,111 name checks in connection with security clearances at the 1984 Summer Olympics and 70,505 name checks in connection with the Democratic and Republican National Conventions and the subsequent Presidential Campaign.

During 1984, the Division's User-Fee Program saved the Federal Government \$7,728,933. This was the amount collected in user fees and used to pay for the salaries of the 293 employees and other related costs of providing non-Federal applicant services. These costs would have otherwise been paid from appropriated funds.

In January 1984, the Division completed the conversion (computerization) of its manual criminal name indices relating to 1.3 million females with dates of birth since January 1, 1929. Work in continuing on the conversion of the manual criminal name index records of the 7.7 million males with the same dates of birth.

The Division's microfilming projects have resulted in the elimination of 800 six-drawer cabinets of filing space.

On September 11, 1984, over 8 million computerized "rap sheets" contained in the Division's files became available on-line through the NCIC telecommunications network as part of the NCIC's III Program. While these records could be requested by on-line requests through the NCIC network since February 1983, the actual rap sheets were previously mailed to the requesters the next day. Now, both the requests and the rap-sheet responses are transmitted on-line in a matter of seconds to the many thousands of NCIC terminals located throughout the country.

A Request for Proposals for the procurement of AIDS-III was issued on June 8, 1984, and proposals from prospective contractors were received on September 10, 1984. The contract for AIDS-III was awarded on January 2, 1985, to Science Applications International Corporation, McLean, Virginia.

During 1984, the Division assisted in the identification of the victims of five air disasters. In October 1983, the Division assisted in the identification of the victims of the terrorist bombing of the U.S. Marine Corps compound at Beirut, Lebanon, and the military personnel killed during the invasion of Grenada. In November 1983, the Division assisted in the investigation of the bombing of the U.S. Capitol by processing parts of the building for latent fingerprints. During December 1983, the Division assisted in the identification of U. S. Marines killed as the result of artillery shelling at Beirut. In June 1984, the Division assisted in the identification of 48 Americans and Cubans released from Cuban prisons.

	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm.	WY	Perm.	WY	Perm.	WY	Perm.	WY
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
Criminal Justice Data and Statistical Services....	204	199 \$7,696	204	199 \$7,896	204	199 \$7,896	...	...

Long-Range Goals: To generate reliable statistics for use in law enforcement administration, operation, and management, and to improve the overall effectiveness of the criminal justice system through more efficient handling and exchange of documented criminal justice information.

Major Objectives:

Uniform Crime Reporting (UCR)

- To provide training, technical consultation and assistance to state and local law enforcement officials in developing and maintaining accurate data in compiling UCR crime statistics on a monthly, semiannual, and annual basis.
- To review incoming UCR statistical reports and technical inquiries, develop quality control standards and uniform terminology, and exchange research ideas.
- To collect, record, analyze, publish, and report detailed and comprehensive data as contained in the "Law Enforcement Officers Killed," "Assaults on Federal Officers," and the "Bomb Summary" program.
- To comply with the Congressional mandate of the Anti-Arson Act of 1982, to compile and tabulate information regarding reports of arson, and to develop a special arson statistical program.
- To provide statistical crime analysis and research in response to requests from academicians the legal profession, Members of Congress, and law enforcement officials.
- To publish nationwide crime statistics on a semiannual and annual basis.
- To provide advisory resources to the Bureau of Social Science Research.
- To provide necessary resources for the implementation of a comprehensive multidimensional evaluation of the UCR program, which is to be funded by the Bureau of Justice Statistics and conducted by an outside consulting firm.

National Crime Information Center (NCIC)

- To provide an automated data-base system to meet the needs of criminal justice agencies on a continuous basis.

To provide system management and user support services including technical assistance, publications, operating manuals, training, functional requirements analysis, record quality assurance, and legal and legislative review.

To monitor system operations and identify enhancements that will maximize responsiveness.

To provide a nationwide telecommunications system for the storage and dissemination of documented information concerning wanted and missing persons, unidentified persons, stolen property, and criminal histories through the Interstate Identification Index (III).

To coordinate meetings and facilitate informational input from the NCIC Advisory Policy Board and Regional Working Groups to insure continuation of a user-oriented management process.

To identify and evaluate changing system and user requirements.

To successfully coordinate and implement necessary system enhancements to meet the needs of user agencies.

#### Base Program Description:

##### UCR

The authority for the FBI to administer the UCR program is contained in U.S. Code Chapter 33, Title 28, Section 5. During the past four years, the UCR program has been operating with current level funding and during some periods with a decreased level of funding for data processing and travel. New responsibilities have been imposed upon the UCR program, for example, arson data collection and the reporting of parental kidnapping have been mandated by Congress and assigned to UCR. Program managers have redesigned and restructured present resources to absorb the additional responsibilities.

The UCR program provides direct administration over the collection and processing of crime data received from contributing agencies to insure an accurate, comprehensive, and nationwide compilation of crime-related statistics for use by all levels of government in formulating productive programs to reduce lawlessness in our society. The UCR program has been managed by the FBI for more than 50 years because of the need for a national repository for criminal statistics. Should the Federal Government excuse itself from this function, crime statistics from many states would cease to be collected and the capability to analyze nationwide crime data would end. No other Federal agency solicits arrest, clearance, or police employment data based on direct voluntary contributions from over 15,000 law enforcement agencies in the United States. The UCR program is considered an important link between Federal, local, county, and state law enforcement.

Several major problems are of immediate concern. During 1981, legislation was enacted which contained an amendment directing the FBI to tabulate information regarding reports of parental kidnapping. The UCR Section continues to evaluate the required data to be included in these reports. This information is obtained through analysis of various criminal and civil records, from social service agencies, and from FBI offices throughout the United States where complaints are received. Development and implementation of a specialized parental

kidnaping data collection program required liaison with various law enforcement and social services representatives, a design of collection devices, development of implementation procedures, and the design of a special parental kidnapping publication.

Another problem area relates to the Anti-Arson Act of 1982, which directed the FBI and, specifically, the UCR program, to permanently classify the offense of arson as a Part I Crime and mandated the FBI to collect data from the fire services community. In this legislation, the Director of the FBI has been directed to develop and prepare a special report for the crime of arson and is required to make public the results of that report.

A final area of difficulty involves the inability of both state and non-state programs to conduct significant training in those jurisdictions which report a large volume of crime statistics. At the national level, the training function is essential to augment and supplement UCR instructions. It is crucial to maintain uniformity and consistency of reported crime information received from local contributors. Training from the national perspective often reveals discrepancies related to the desired level of complete and accurate crime reporting. Continued support for this function is vital.

#### NCIC

The NCIC Program addresses the problem of the inability of the criminal justice community to function effectively without accurate and timely information. The NCIC provides an interstate teleprocessing system to exchange documented criminal justice information on wanted and missing persons, stolen property, criminal histories, and laboratory comparison standards. The FBI, with the advice of the NCIC Advisory Policy Board and Regional Working Groups, manages the NCIC for the benefit of the FBI, as well as the rest of the criminal justice community. The NCIC addresses the criminal justice community's need to provide nationwide availability of information to combat the highly mobile criminal. The availability of this information increases the opportunity to locate wanted persons at large in the Nation, missing persons who may be a danger to themselves or others but who are not criminals, and stolen property which otherwise might never be returned to the rightful owner. In addition, the timely availability of computerized criminal history information to prosecutors, judges, correctional officers, and law enforcement protects the American public by permitting fully informed decisions in the following matters: law enforcement investigation, booking and criminal processing, presentence investigation concerning flat term and minimum sentencing laws, risk classification for custody and supervision, bond decisions, parole, and probation. The timely availability of computerized criminal history information also enhances the ability of the FBI to accomplish its investigative mission. The national security is also protected through NCIC use in the investigation of potential and current Federal employees. State needs for applicant and licensing checks in sensitive areas or those requiring regulation are also aided.

NCIC services must be available to approximately 60,000 user agencies with varying needs. These users are geographically dispersed and operate computer equipment manufactured by various companies with different capabilities. NCIC must meet the changing needs of users, the system must remain reliable and responsive, record data quality must be insured and sufficient training must be provided.

The basic authority for the operation of the NCIC is contained in Title 28, United States Code 534, which authorizes the Attorney General to: acquire, collect, classify and preserve identification, criminal identification, crime, and other records; and exchange these records with, and for the official use of authorized officials on the Federal, state, and local levels. The Attorney General has delegated his authority under this Statute to the Director of the FBI. Executive Order 10450 provides for the utilization of these services to meet security requirements for Federal employees. The FBI is authorized by PL 92-584 to exchange identification records with officials of Federally chartered or insured banking institutions and is authorized by state statute and approved by the Attorney General, with officials of state and local governments for the purposes of licensing and employment. The operation of the NCIC/DOJ file is subject to Title 28, Code of Federal Regulations, Part 20, Subpart A and C. Public Law 94-29 provides for the dissemination of NCIC records to the securities industry. The operation of the NCIC Advisory Policy Board is governed by the Federal Advisory Committee Act, 86 Statute 772.

#### Accomplishments:

##### UCR

During 1984, UCR's front office staff continued to confer with the Bureau of Justice Statistics and Abt Associates group regarding the ongoing in-depth study of the UCR Program, participated in various group meetings and conferences, was involved in the revision of law enforcement training manuals and publications, handled numerous written and telephonic requests for UCR data, participated in the Section's in-service training program, and participated in the project to develop Federal level crime statistics. The UCR staff met with representatives from the National Crime Information Center, the Bureau of Justice Statistics, and other groups to formulate plans for the FBI's involvement in the aggregation of Federal level data. The Special Programs Unit Chief/Assistant Section Chief made several radio tapes for the news media. Unit personnel released and disseminated annual publications regarding law enforcement officers killed and assaulted, bombing incidents, and processed reports for the above in addition to those of parental kidnappings.

During 1984, the seventh National Uniform Crime Reporting Conference was hosted by the UCR Section at the FBI Academy in Quantico, Virginia. This conference was especially organized for the Abt Associates Group as a forum to present its accomplishments and recommendations to the conference attendees and was of particular significance because it consisted of attendance by Chiefs of Police from several large law enforcement agencies in addition to representatives from the Abt Associates study group. Meaningful dialogue was held among the UCR law enforcement agency Chiefs of Police, the Abt Associates and criminal justice representatives.

On April 19, 1984, the 1983 Preliminary Annual Uniform Crime Report was compiled, printed and released for public and contributor distribution. "Crime in the United States - 1983" was published on schedule (September 9, 1984).

The Training, Liaison and Program Development Unit conducted training seminars and on-site visits with state and non-state UCR Programs and coordinated and developed an in-service training program with the Section. Personnel in this unit developed and revised law enforcement training publications, prepared the Section's internal budget for the fiscal year, conducted lectures for the Tour Unit and the FBI Academy, attended meetings on training and policy, and completed work on the UCR Handbook revisions.

The Research and Analysis Unit completed the fourth and fifth semiannual Crime Indicator System (CIS) reports, participated in several professional meetings, compiled data for various special requests for UCR data users, and continued its Program enhancement efforts. Personnel in this Unit prepared various statistical papers and/or compilations, attended UCR Steering Committee meetings, developed two special UCR mathematical models, began an analysis of the relationship between social indicators and crime, developed three sampling plans for other FBI entities, computed various age-related data and attended meetings regarding the UCR study by ABI Associates research group. The FBI Director is frequently briefed on a result of numerous analyses conducted by the CIS report.

The Crime Statistics Processing Unit: released the 1983 semiannual report, processed over a million crime reports from nearly 16,000 local law enforcement agencies and initiated numerous letters of correspondence to contributors regarding their data submissions. The Unit is basically responsible for processing data which was to be published in the 1983 edition of Crime in the United States and semiannual and annual crime releases.

#### NCIC

During 1983 and 1984, an enhanced capability to obtain individual criminal histories was provided to the users of NCIC. This capability was made possible with an expanded test of the Interstate Identification Index (III). The NCIC, FBI Identification Division, and 17 state agencies interconnected their criminal record keeping systems to make available the records of more than eight million offenders. The Identification Division's Automated Identification System serves as the source of the index information and makes available an additional four million criminal history records. Prior to this test, only about two million records could be obtained via NCIC. The number of available records will continue to increase by more than 15,000 per week as individuals are arrested for the first time.

In addition to providing criminal records, the III includes new features that improve record quality and save resources for both participating state agencies and the FBI. The III is designed also to eliminate duplication of record keeping at the state and national level.

As of November 1, 1984, the total number of records in file was 17,021,460. As of November 1, 1984, the following number of records were stored at the national level in NCIC: Interstate Identification Index, 8,860,039; stolen securities, 2,606,460; stolen guns, 2,005,895; stolen articles, 1,371,127; stolen vehicles, 1,292,103; stolen plates, 605,323; wanted persons, 217,586; missing persons, 35,011; stolen boats, 26,888; unidentified persons, 668; Canadian warrant, 270 and U. S. Secret Service Protective, 90.

On June 30, 1983, an Unidentified Persons File was implemented pursuant to provisions of the Missing Persons Act of 1982. Considerable effort has been expended to train NCIC users in procedures for entering individuals into this new file. In addition, cross matching will be provided between this file and the Missing Persons File based upon nonunique identifiers. The NCIC Staff has stressed the importance of promptly entering missing individuals into NCIC. The effectiveness of this training is indicated by the consistent increase in missing persons entries. There were 14,311 new entries in October 1982. There were 9,179 new entries during October 1983. There were 29,252 new entries during October, 1984. The new Unidentified Person File created as of June 30, 1983, had a total of 67 records in it as of November 1983. The total number of records has increased to 668 records as of November 1, 1984. Considerable programming effort had been expended to create additional fields in entering missing unidentified individuals for cross matching on nonunique identifiers and charting of dental and other x-ray data.



Activity: Program Direction	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount

Executive Direction and Control....

Administrative Services.....

Total.....

This activity includes the management, administrative support, legal, planning, evaluation, inspection, and financial functions of the FBI. In accordance with the President's directive that administrative services be reduced by 10 percent in 1986, the two programs reflect decreases totaling \$4,971,000.

Executive Direction & Control....	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount

Long-Range Goal: To provide effective leadership management, direction, and control for the Federal Bureau of Investigation.

#### Major Objectives:

To provide leadership for the FBI in support of the organization's long-range goal through the promotion of high morale and efficient commitment of human and material resources.

To prepare all required budget submissions and financial data reports related to budget execution in a timely manner.

To provide legal advice and guidance to all FBI personnel in administrative and investigative matters, conduct and administer all FBI legal training and prepare training monographs and legal articles for publication, make legal recommendations on all administrative civil forfeitures, rule on petitions for remission or mitigation of civil administrative forfeitures, provide legal advice to the field offices and FBI Headquarters on legal issues associated with civil and criminal forfeitures, provide legal counsel and defense of civil litigation and administrative claims involving the FBI, its personnel (past and present) and FBI records, and review and secure documents in discovery from adversaries and produce documents in civil suits, exercising that care necessary to insure that all privileges available to the Government are properly asserted.

To be responsive to Congressional inquiries and provide appropriate liaison to various Congressional committees.

To carry out audit, inspection, and evaluation of FBI programs to insure their economic value and effective compliance with objectives, applicable laws, and regulations.

To insure the public's understanding of the FBI's obligations, services, and accomplishments for the purpose of intensifying its essential cooperation.

To insure that FBI personnel conduct the organization's activities in a proper and professional manner.

**Basic Program Description:** The Director with the advice and counsel of the FBI's Executive Assistant Directors and members of the Executive Conference sets policy and provides leadership and direction to the organization. The Executive Assistant Directors with the assistance of their respective staffs transmit policy statements, guidelines, and other managerial information to the Assistant Directors who direct the daily operations of the Headquarters Divisions. The budget and financial management personnel analyze and maintain financial information in order to formulate, present, and execute the FBI's budget in accordance with all applicable laws, guidelines and regulations.

The objectives of the General Legal and Civil Litigation Programs are carried out by professional and experienced special agent attorneys who, with support from qualified paralegal specialists, provide timely and accurate legal advice to FBI leadership and defend claims and suits arising from investigative and administrative actions in the field and at FBI Headquarters. FBI personnel are kept informed of their responsibilities and charges in the law through legal instruction, timely dissemination of information relating to new judicial decisions, publication of law digest articles, a civil forfeiture manual, and legal advice in individual investigative operations in the planning and execution stages. Close daily liaison is maintained with the Department of Justice regarding the defense of civil actions, disclosure of records under the Freedom of Information and Privacy Acts and the Right to Financial Privacy Act, and the representation of FBI concerns and legislative needs. Special agent attorneys also represent the FBI in Equal Employment Opportunity (EEO) and Merit System Protection Board (MSPB) hearings. On July 28, 1983, the Attorney General delegated authority to the FBI to handle administrative civil forfeiture proceedings, including the handling of petitions for remission or mitigation of administratively forfeited property.

The Congressional Affairs program coordinates responses to legislative inquiries both from the Congress and the Department of Justice and insures that issues and questions raised by the Congress, the Attorney General and other Department of Justice personnel are completely resolved.

The personnel in the Internal Inspection, and Program Evaluations and Audit Program conduct continuous audits, inspections, and evaluations on the FBI's investigative and administrative activities and programs to determine if existing policies, procedures, and operations meet present and anticipated requirements and whether they are efficiently, economically, and effectively performed.

The Public Affairs Program is responsible for insuring public awareness of FBI responsibilities and accomplishments. Tours, news media requests, correspondence with the public, and other related matters are also coordinated by the Public Affairs Program.

Accomplishments and Workload: Accomplishments and workload of the Executive Direction and Control Program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Radio scripts, press summaries, major press releases, and statements	37,165	39,092	39,092	39,092
Speeches and remarks by the Director	50	44	50	50
Appearance to the media in major feature articles	298	313	313	313
Testimony, constituent requests, and Congressional/Investigative Liaison	4,516	4,573	4,573	4,573
FBI publications disseminated	521,425	736,210	736,210	736,210
Tourists	504,356	495,116	504,356	504,356
Title III, Undercover Operations, Forfeiture Matters	320	317	393	474
Other Congressional Monitoring, Other				
Beepers and CCTV Requests	812	962	1,021	1,122
FISA Applications	4,231	3,415	3,616	3,978
Priority Service Projects*	527	575	447	542
Priority Research Projects	700**	342	750	900
Forfeiture Declarations-Petitions	3,200	3,400	3,500	3,500
Instructional Hours Taught	379	364	437	484
Civil Actions and Appeals	4,248	2,577	2,654	2,783
Body Recorders				
Administrative and Third Party Claims	330	591	591	697
EO-12812-Projects	157	165	186	196
Pages Reviewed in Discovery (In Thousands)	1,406	1,800	1,800	1,800

\* Formerly identified as Unassigned Service Projects.

\*\* This includes items leading up to the Declaration of Forfeiture. Workload estimates include high priority activities; i.e., Declaration of Forfeiture and Petitions for Remission or Mitigation only. Prior to August 1983, when the FBI was delegated authority to handle Administrative Civil Forfeiture proceedings, these matters were processed for the FBI by DEA. Workload is based on prior DEA experience and projections. In addition, the forfeiture provisions of the Comprehensive Crime Control Act of 1984 substantially increased the monetary jurisdiction under the Controlled Substances Act civil forfeitures which can be projected to substantially increase the workload of seizing agencies and require the increased involvement of these offices in the forfeiture process.

The Congressional Affairs Program successfully encouraged the enactment of PL-151 which allows for more favorable reimbursement for travel, transportation, and relocation expenses of transferred employees; successfully encouraged the passage of H.R. 3232 (PL-98-86), which removed the prohibition on reimbursement for new Federal employees, thus allowing the FBI and the Department of Justice (DOJ) to authorize payment for travel and transportation to newly appointed special agents; successfully encouraged the inclusion of specific language in the Child Protection Act of 1984 (PL-98-292); and successfully encouraged a House Subcommittee to vote out legislation which allows the FBI to share in the proceeds of the DOJ Portfolio Fund.

The Public Affairs Program continued to advise the Director, FBI officials, field offices, and Legal Attaches of major activities and events concerning the FBI through various special news packages and summaries.

The Public Affairs Program was also responsible for aiding in the coordination, planning, and implementation of the 1984 National Law Enforcement Explorer Conference.

During 1984 the Program Evaluation Unit initiated 10 studies such as a review of the physical security of the J. Edgar Hoover FBI Building, the proper location of the headquarters of the Butte Field Office, a review of the Title III (electronic surveillance) techniques, a review of the management of the Northeast Regional Computer Center and the role of the Drug Task Force Coordinator. Five program evaluations were initiated including a review of the National Applicant Recruiting program, the Legal Counsel Division, the Field Police Training Program, background investigations for special agents and special support groups. Six studies and four evaluations were completed. Reports have been issued on the New Agent's Training Program, the Foreign Language Program and the review of FBI Aircraft operations. The Audit Unit conducted financial and compliance audits at 37 FBI field offices. Ten audits of FBIHQ funds/systems were completed such as the Inquest Fund, Fourth Quarter Procurement, and the Voucher and Cash Management Systems. Also, 32 OAO/DOJ liaison matters were handled during this period.

During 1984 the Internal Inspections Program completed inspections of three Legal Attaches, five Headquarters divisions and 30 field offices. During this period, the program issued 1,627 instructions and recommendations relating to compliance deficiencies and to the effectiveness, efficiency, and economy of the administrative and/or investigative operations of the inspected entity. In furtherance of the FBI's Career Development Program, the Office of Inspections (OI) trained 48 future executives. All program responsibilities mandated for OI were discharged on a timely basis.

In 1984, Office of Professional Responsibility (OPR) supervised 408 cases, of which 83 were personally investigated by OPR. In addition, 13 Intelligence Oversight Board (IOB) matters were handled by OPR. The Unit continued to perform its mandated responsibilities on a timely basis.

The Budget Program prepared all regularly required budget submissions and justifications and briefed top management on their content, prepared all financial and execution reports required internally and externally, and provided undercover funds in an appropriate and timely manner.

The Legal Research Unit played a key role in the preparation and hearing stages of a successful espionage prosecution by military court martial in the Eastern District of Virginia. Due to the sensitive nature of the evidence and restrictions placed on its use in prosecution, extensive research and briefing of DOJ and military attorneys were provided as well as on-the-scene assistance at the trial. Extensive assistance was also provided to the Terrorism Section, Criminal Investigative Division, in obtaining five emergency Title III authorizations and subsequent affidavits for court approval in a Miami kidnapping case titled "QUINAP." An extensive research project was completed regarding FBI use of the All Writs Act and Federal Rules of Criminal Procedure, Rule 57b, to obtain toll records and other documents in fugitive cases where the use of a Federal Grand Jury subpoena is unavailable. Lectures were provided to over 300 special agents at specialized seminars on a variety of legal topics. The FBI new agent legal training curriculum was revised and lengthened to 74 class hours. A legal refresher training program for FBI Headquarters supervisory agents was designed and implemented.

Since August 1983, the Legal Forfeiture Unit has conducted 18 training seminars regarding the forfeiture process for personnel from each of the 59 FBI field offices. Comprehensive guidance and instructional material has been distributed by means of the "Civil Forfeiture Manual." The Civil Litigation-Civil Discovery Program continues to successfully defend past and present FBI personnel named in civil suits and defend FBI policies and records, as well as significant personnel actions taken by the FBI in sensitive Equal Employment Opportunity (EEO) and Merit Systems Protection Board (MSPB) matters. Additionally, special agent attorneys have defended cases before the MSRB and have conducted multiple hearings before the EEO Commission arising out of the Christine Hansen v. FBI discrimination case. Information and Privacy Acts Litigation Unit (IPALU) attorneys have been instrumental in developing a litigation strategy with the Department of Justice to use the Privacy Act as an exemptive statute under the FOIPA.

In FOIPA litigation titled North American Man-Boy Love Association (NAMBLA) v. FBI, a significant precedent was established by the FBI's presentation of an oral Vaughn affidavit with its concomitant savings in time and money. During the past year considerable research was conducted into the law of "informant privilege." The FBI's policies and practices in applying the privilege are being refined as a result of experience gained in numerous civil actions involving the privilege.

Program Decreases: The reduction to this decision unit is the result of the President's directive to reduce administrative services by ten percent in 1986.

	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease					
	Perm.	Pos.	WY	Amount	Perm.	WY	Amount	Perm.	WY			
Administrative Services.....	721	702	\$24,506	721	704	\$24,911	721	704	\$22,486	...	...	-\$2,425

Long-Range Goal: To provide a complete range of administrative services to maintain the FBI as a functional entity.

Major Objectives:

To meet all mandated requirements for pay administration, performance appraisal and merit pay, and position management for approximately 21,000 FBI employees.

- To recruit, process, and hire qualified minority and female special agents and support personnel.
  - To provide safety, health, and employee assistance program.
  - To provide an effective equal employment opportunity program.
  - To provide printing, supply, warehousing, and labor services.
  - To manage all space operations of the FBI, to include acquisition, management, and release of space.
  - To provide custodial and maintenance service for FBI Headquarters space in an effective and efficient manner.
  - To provide effective procurement and supply support for all FBI activities.
  - To process all property seized for forfeiture purposes in an effective manner.
  - To continue the use of excess material as a cost-saving technique.
  - To provide accurate and timely preparation of the biweekly payroll; prompt distribution of payroll checks; accurate and expeditious processing of invoices and vouchers; and timely dissemination of accurate cost and accounting data.
- Base Program Description: The Administrative Services program provides on a nationwide basis all administrative services which are vital to the continued efficient operation of the FBI as an entity. These functions are performed under a Personnel Services program element, a General Services Support program element, and a Systems Support program element.
- The Personnel Services program is responsible for the administration, coordination and policy formulation of pay administration; retirement; leave; safety; disciplinary action; employee performance, recognition, and indoctrination; applicant recruitment; and processing of employee transfer matters and compiling and reporting personnel statistical data. This program is also responsible for the administration of the Performance Appraisal and Merit Pay System and the coordination and implementation of the Equal Employment Opportunity and Affirmative Action programs.
- The General Services Support program has the responsibility for the procurement of all FBI equipment, goods, services, and supplies; the management of FBI equipment inventory and stock; processing property seized for forfeiture purposes; providing custodial and maintenance services for FBI Headquarters space; and acquiring and providing space, security, printing, supply, and warehousing services to all FBI offices.
- The Systems Support program is responsible for biweekly payroll preparation and distribution; processing of commercial vendor invoices and personnel travel and relocation vouchers; compiling certain cost and accounting data; and coordinating the purchase of transferred employees' residences with third party relocation management firms.

The functions of the decision unit are required for the basic operation of the FBI and are mandated by law thereby minimizing any discretionary action on the part of the program managers.

Accomplishments and Workload: Accomplishments of the Administrative Services Program are presented in the following table:

Item	Actual		Estimated	
	1983	1984	1985	1986
Personnel Actions <sup>a</sup> .....	23,897	30,402*	27,000	27,000
EEO complaints processed.....	19	29	31	33
Performance ratings matters processed.....	49,437	46,544	47,120	47,120
Position Classification Actions <sup>a</sup> .....	2,460	3,121*	2,800	2,800
Household goods shipments processed.....	1,074	1,527	1,572	1,619
Purchase orders processed.....	17,446	19,885	24,000	28,000
Federrip items orders issued.....	14,529	15,169	16,500	20,500
Request for office supplies, labor services, and shipment and/or receipt of equipment and evidence processed.....	39,751	49,961	42,000	42,000
Contracts issued.....	851	898	950	990
Salary checks and savings bonds distributed.....	380,042	367,408	367,408	367,408
Payroll actions processed.....	686,610	704,590	702,148	702,148
Invoices/vouchers processed.....	253,969	295,462	312,000	327,000
Special inquiries and surveys processed.....	2,750	2,775	3,000	3,000
Printing and reproduction.....	60,010,013	60,076,490	50,076,490	44,546,993

\* The work output accomplished by the Personnel Services Program was affected through the utilization of 20 overtime positions, as well as, the authorization of 2,540 hours of overtime payment in 1984.

Additionally, during 1984, the Personnel Services Program element processed 1,181 workers' compensation claims, provided 2,540 employee typing/short-hand tasks, handled 2,279 agent/support transfers and continued development and refinement of the FBI's human resource planning and target recruitment.

Further, the General Services Support Program element escorted 38,371 visitors, processed 1,050 requests for space modification, and conducted 422 background investigations on GSA maintenance and contractor employees. Property Management acquired, rehabilitated, and resubletized approximately \$5 million of other agencies' excess property which resulted in a no-cost enhancement to the FBI's equipment base. In the area of forfeiture and seized property, approximately 300 cases were closed awarding to the Government approximately \$20 million, and approximately 600 cases were pending forfeiture at the end of 1984 with a value of approximately \$700 million.

The FBI has improved the overall management of its vehicular fleet by consolidating all fleet related administrative matters into one centralized organizational entity staffed by professional fleet administrators. The FBI has the most advanced computerized information system in the Federal Government and can provide instantaneous inventory and operating cost data to management personnel. Field managers are also provided quarterly automotive reports netting forth both fuel and maintenance costs for each vehicle assigned to their respective divisions. Procurement activities have been streamlined reducing unnecessary paper flow and resulting in the delivery of new vehicles much earlier in the model year. An aggressive training program for automotive maintenance employees has been implemented to insure proficiency with the new computer operated engine systems and front-wheel drive vehicles. FBI maintenance facilities have been equipped with the newest diagnostic equipment and certified by General Motors Corporation and Ford Motor Company to perform in-house warranty repairs. A rigorous preventive maintenance program has been established that has resulted in a decline in maintenance costs.

During 1984, the Facilities Management Unit provided program management and project approval for approximately 4 million square feet of field space holdings which included 180 requests for acquisition, release, or relocation of space and 650 requests for space alterations. At the FBI Headquarters facilities, this unit completed 400 alteration projects and performed operation maintenance and repair services for approximately 1.4 million square feet of the JEH FBI Building. The unit directly assisted the Technical Services Division in the review and development of space holdings to accommodate the Field Office Information Management System.

Finally, the System Support program element processed approximately 106,326 cards reporting agents' administratively uncontrollable overtime.

Program Decreases: The Administrative Services decision unit funding levels have been adjusted to implement the President's directive decision to reduce Administrative Services by ten percent.



Federal Bureau of Investigation

Salaries and expenses

Consulting and Related Services  
(Dollars in thousands)

	1984 Actual	1985 Estimate	1986 Estimate
Consulting Services.....	\$5,068	\$2,982	\$4,203

Consulting services are utilized to support the development and enhancement of Automatic Data Processing (ADP) Systems. Services are required for the Field Office Information Management System (FOIMS), a multi-million dollar developmental project which will be the backbone of the FBI's integrated data processing environment. Additional ADP-related consulting funding has been committed to the Institute for Defense Analysis (IDA), a Federal Contract Research Center (FCRC), under contract to the Department of Defense (DOD). Developmental efforts are needed to support identified investigative support requirements for both the FBI and the Drug Enforcement Administration (DEA). The FBI has been directed to support DEA and the consulting funding is required to carry out the functions.

Federal Bureau of Investigation

Salaries and expenses

Status of Congressionally Requested  
Studies, Reports, and Evaluations

The Report of the Committee on Appropriations for the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, Fiscal Year 1985, requested the Department of Justice to submit two reports by February 1, 1985. The Department of Justice was requested (1) to report "on its future plans for, and the feasibility of expanding, training for state and local law enforcement personnel at the (FBI) Academy" and (2) to respond to a series of questions regarding the administration of Administratively Uncontrollable Overtime (AUO).

A report on State and Local Law Enforcement Training was prepared by the FBI Training Division and a joint FBI/DEA response was prepared on the subject of AUO.

Both reports were forwarded to the Assistant Attorney General for Administration, Justice Management Division, Department of Justice, by cover memorandum dated December 12, 1984.

Federal Bureau of InvestigationSalaries and expensesPriority Ranking

<u>Base Program</u>		<u>Program Increases</u>	
<u>Program</u>	<u>Ranking</u>	<u>Program</u>	<u>Ranking</u>
Other Field Programs	1	Other Field Program	1
Organized Crime	2		
CCDE	3		
White-Collar Crime	4		
Executive Direction and Control	5		
Administrative Services	6		
Records Management	7		
Forensic Services - Federal	8		
Fingerprint Identification	9		
Technical Field Support and Equipment	10		
Training	11		
ADP and Telecommunications	12		
Legal Attaches	13		
Forensic Services - Non-Federal	14		
General Law Enforcement Training	15		
Criminal Justice Data and	16		
Statistical Services			

Federal Bureau of Investigation  
Salaries and Expenses  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985		1986	
		Authorized	Supplemental*	Program Increase	Total
Criminal Investigation.....	8,424	9,014	96	160	9,270
Fingerprint Identification.....	1,039	937	...	...	937
General Admin. Clerical and					
Offices Services.....	7,747	8,208	52	110	8,370
Other.....	2,730	2,730	...	101	2,831
Total.....	19,940	20,889	148	371	21,408
Washington.....	7,483	7,499	...	46	7,545
U.S. Field.....	12,400	13,331	148	325	13,804
Foreign Field.....	57	59	...	...	59
Total.....	19,940	20,889	148	371	21,408

\* Supplemental funding is requested to provide for the FBI's expanded responsibilities resulting from the enactment of the Comprehensive Crime Control Act of 1984. This request will provide the required personnel and associated costs to enable the FBI to carry out its role as mandated by the Act.

Federal Bureau of Investigation  
Salaries and expenses  
Summary of Adjustments to Base  
(Dollars in thousands)

	Permanent Positions	Work- Years	Amount
1985 as enacted.....	20,889	20,319	\$1,147,123
Supplemental requested:			
Pay increase supplemental:			
Increased pay contn.....			Amount
Increased FICA contn.....			\$17,639
Pay raise absorption.....			250
Net pay supplemental.....			-2,619
Program supplemental requested.....	148	37	15,270
Proposed rescission.....	148	37	1,500
1985 appropriation anticipated.....	21,037	20,356	-3,502
Adjunct to base:			1,160,388
Savings resulting from management initiative.....	...	...	-21,518
Uncontrollable increases:			
Annualization of 1985 proposed supplemental.....	...	111	5,100
Annualization of 1985 pay increases.....	...	...	8,625
Restoration of reduction for change in hourly rate.....	...	...	1,697
Annualization of additional positions approved for 1985.....	...	87	4,044
Within-grade increases.....	...	...	7,288
Health benefitn contn.....	...	...	1,233
Federal Employees' Compensation Act (FECA) - Workers' Compensation.....	...	...	136
GPO printing contn.....	...	...	65
USA recurring reimbursable services.....	...	...	381
Federal Telecommunications System (FTS).....	...	...	659
Federal Telecommunication Contn - C & P Telephone Company.....	...	...	334
General pricing level adjustment.....	...	...	11,779
Cont escalation - replacement automobiles.....	...	...	1,000
Cont escalation - paymentn to the Department of State.....	...	...	350
Annualization of construction requirements for Dormitory/Classroom Building at the FBI Academy.....	...	...	10,320
Total uncontrollable increases.....	21	198	53,011
Decreases:			
Nonrecurring contn - study concerning redesign of the National Crime Information Center (NCIC).....	...	...	-2,000
Nonrecurring contn - AIDS III.....	...	...	-5,381
Nonrecurring contn - construction of Engineering Section Building at the FBI Academy.....	...	...	-9,982
Nonrecurring contn - Voice Privacy PM radio equipment.....	...	...	-16,418
Nonrecurring contn - Telephone equipment.....	...	...	-1,000
Officer UCDE.....	...	...	-1,000
Total decreases.....	...	...	-35,781
1986 Base.....	21,037	20,554	1,156,100

Federal Bureau of Investigation

Salaries and expenses

Justification of Adjustments to Base  
(Dollars in thousands)

Savings resulting from management initiatives:

Five percent pay reduction

Savings of \$21,518,000 will be realized as a result of the proposed five percent pay reduction in salaries for Civilian Federal employees.....

Uncontrollable increases:

1. Annualization of 1985 proposed supplemental.....

A supplemental request, in the amount of \$1.5 million, has been submitted for 1985. These funds, 148 positions and 37 workyears are required due to additional responsibilities resulting from the enactment of the Comprehensive Crime Control Act of 1984. Annualization of the supplemental requires 111 workyears and \$5.1 million.

2. Annualization of 1985 pay increase.....

This provision for the annualization of the January, 1985 pay increase contained in Executive Order 12496 approved December 28, 1984.

3. Restoration of reduction for change in hourly rate.....

Section 310(b)(1) of the Omnibus Reconciliation Act of 1982 required that for 1984 and 1985 pay be computed on the basis of 2,087 workhours. For 1986 the basis of computing pay reverts to 2,080 workhours and restoration of the \$1,697,000 withdrawn from 1984 funds is required to fund the change in the hourly rate.

4. Annualization of additional positions approved in 1985.....

Annual salary rate of 538 approved positions.....	Approved 1985	Annualization
Less lapse (16 percent) (87 positions).....	Increases	Required
Net Compensation.....	\$17,252,000	\$3,370,000
Associated employee benefits.....	-3,370,000	
Total costs subject to annualization.....	\$13,882,000	674,000
		<u>\$4,044,000</u>

	<u>Work-</u> <u>years</u>	<u>Amount</u>
...	...	-\$21,518
111	111	5,100
...	...	8,625
...	...	1,697
87	87	4,044

	<u>Work- years</u>	<u>Amount</u>
5. Within-grade increases.....	...	\$7,288
This request provides for within-grade salary increases, including merit pay increases. This amount is consistent with increases experienced in recent years. (Personnel compensation \$6,698,000 and personnel benefits \$590,000.)		
6. Health benefits costs.....	...	1,233
The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective the first pay period commencing after January 1, 1984, the health insurance carriers raised their rates by approximately ten percent. An additional \$1,233,000 is required in 1986 to cover these increased rates. This requirement was computed as follows:  Employer's contributions for the pay period ending 1/7/84 (\$674,782.70) versus contributions for the pay period ending 1/21/84 (\$722,094.54) show an increase of \$47,311.84. An increase of \$1,233,000 is requested in 1986 for Health benefits costs.		
7. Federal Employees' Compensation Act (FECA) - Workers' Compensation.....	...	136
This increase reflects the billing provided by the Department of Labor for the actual costs in 1984 of employee's accident compensation. The 1986 amount will be \$2,812,000 or \$136,000 over the 1985 base.		
8. GPO printing costs.....	...	65
The Government Printing Office (GPO) is currently projecting a five percent increase in costs for 1986. Based on 1985 projected costs of \$1,306,000, an additional \$65,000 is requested for 1986.		

Work- years	Amount
...	\$381
9. GSA recurring reimbursable services.....	
Payments for after hours heating, ventilation and air conditioning, and guard service in the two Federal Buildings where the FBI uses GSA guards (J. Edgar Hoover Building, Washington, D.C., and the Federal Building in San Juan, Puerto Rico) are made to GSA on a reimbursable basis. An uncontrollable increase of five percent, or \$381,000 over the amount available for 1985, is requested for 1986.	
10. Federal Telecommunications System (FIS).....	659
The FIS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1986 the uncontrollable increase will be \$659,000 over the 1985 base of \$6,590,000.	
11. C and P Telephone Company telecommunications.....	334
Expenses for equipment, installation, and commercial tolls (to include message units and directory assistance) have increased dramatically since the divestiture of AT and T and the Bell operating telephone companies. Annualization of the current billings from the C and P Telephone Company indicates that 1985 expenses will be approximately 18 percent higher than 1984 estimated expenses. An uncontrollable increase of \$334,000 is required for this increase. This increase is applicable only to C and P Telephone Company telecommunications costs.	
12. General pricing level adjustment.....	11,779
Specific price increases have been shown and requested where feasible. The general pricing level adjustment has been applied to parts of the following object classes:	
Object Class	General Pricing Level Adjustment
Travel and transportation of persons.....	\$522,000
Transportation of things.....	290,000
Communications, utilities, and other rent.....	1,431,000
Other services.....	1,464,000
Supplies and materials.....	1,987,000
Equipment.....	6,085,000
Total.....	<u>\$11,779,000</u>



	<u>Work- year</u>	<u>Amount</u>
13. Cont encalation - replacement automobiles.....	...	\$1,000
<p>In 1986, an uncontrollable increase of \$1 million is required for costs associated with replacing automobiles in the FBI's fleet which meet GSA's replacement standards. This represents an approximate six percent increase over the base funding of \$15,726,000 and is based upon the following studies, etc. A study conducted by the Hertz Corporation revealed that during the period 1972-1982 the average cost of an intermediate-sized automobile increased 174 percent. The average cost of an FBI vehicle has increased 38 percent in the last four years, and industry experts representing the major automobile manufacturers have advised that a minimum increase of six percent can be anticipated in the cost of a 1986 vehicle and a comparable one in 1985.</p>		
14. Cont encalation - payments to the Department of State.....	...	350
<p>An additional \$350,000 is required to provide for payments to the Department of State for leased housing and payments under the PAAS program. There is \$498,000 available for this purpose and the projected cost for 1986 is \$848,000. The last increase granted for the program was in 1981 when \$50,000 was allowed for the PAAS program.</p>		
15. Annualization of construction requirement for Dormitory/Classroom Building at the FBI Academy.	...	10,320
<p>The 1985 appropriation contains \$2.8 million for site preparation for new buildings at the FBI Academy. A total of \$13.120 million is required in 1986 for the construction of the Dormitory/Classroom. The \$2.8 million which otherwise would have been nonrecurred, has been applied against this requirement. An uncontrollable increase of \$10.320 million is required for construction funds.</p>		
Total uncontrollable increases.....	198	53,011
Decreases:		
1. Nonrecurring costs - studies concerning redesign of the National Crime Information Center (NCIC).....	...	-2,000
<p>The 1985 request contains \$2 million to conduct studies pertaining to the redesign of the NCIC. The entire amount is being nonrecurred in 1986.</p>		

	<u>Work- years</u>	<u>Amount</u>
2. Nonrecurring AIDS-III contn.....	...	-5,381
A total of \$5,381,000 in costs associated with the AIDS-III project in being nonrecurred in 1986.		
3. Nonrecurring costs - Construction of Engineering Section Building at the FBI Academy.....	...	-9,982
The 1985 request contains \$9,982,000 for construction of a building at the FBI Academy to house the FBI's Engineering Section. This entire amount is being nonrecurred in 1986.		
4. Nonrecurring costs - Voice Privacy FM Radio Equipment.....	...	-16,418
The 1985 request contains a base amount of \$32.4 million for voice privacy equipment. In 1986, \$16,418 million of this amount is being nonrecurred.		
5. Nonrecurring costs - telephone equipment.....	...	-1,000
The 1985 request contains a total of \$1 million for Secure Telephone Units. This amount is being nonrecurred in 1986.		
6. Offsets - OCIE.....	...	-1,000
A total of \$1 million for off-site premium for OCIE purposes in being nonrecurred in 1986.		
Total decreases.....	...	-35,781
Total adjustments to base.....	198	-4,288

## Federal Bureau of Investigation

## Salaries and expenses

Financial Analysis - Program Changes  
(Dollars in thousands)

Item	Criminal, Security, and Other Investigations		Program Direction		Total	
	Pos.	Amount	Executive Direction and Control	Administrative Services Division	Pos.	Amount
Grades						
GS/DA-15.....	...	...	...	...	...	...
GS/DA-14.....	10	4,429	...	...	10	4,429
GS/DA-13.....	150	5,449	...	...	150	5,449
GS-12.....	6	183	...	...	6	183
GS-11.....	115	2,973	...	...	115	2,973
GS-10.....	...	...	...	...	...	...
GS-9.....	...	...	...	...	...	...
GS-7.....	...	...	...	...	...	...
GS-5.....	90	1,251	...	...	90	1,251
Total positions and annual rates.....	371	10,285	...	...	371	10,285
Leaves (-).....	-102	-2,977	...	...	-102	-2,977
Total workyears and personnel compensation.....	269	7,308	...	...	269	7,308
Other personnel compensation.....	...	632	...	...	...	-3,742
Personnel benefits.....	...	1,250	...	...	...	653
Travel and transportation of persons..	...	216	...	...	...	216
Transportation of things.....	...	...	...	...	...	...
Standard Level User Charges.....	...	...	...	...	...	...
Communications, utilities, and other rent.....	...	...	...	...	...	...
Printing and reproduction.....	...	15	...	...	...	15
Other services.....	...	2,000	...	...	...	2,000
Supplies and materials.....	...	70	...	...	...	70
Equipment.....	...	23,044	...	...	...	23,044
Land and Structures.....	...	...	...	...	...	...
Total workyears and obligations, 1986.	269	34,535	...	-2,425	269	29,564

## Federal Bureau of Investigation

## Salaries and expenses

Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Grades and salary ranges	1985 Estimate		1986 Estimate		Increase or Decrease	
	Positions & Workyears	Amount	Positions & Workyears	Amount	Positions & Workyears	Amount
Executive Level II, \$75,100.....	1		1		...	
Executive Level IV, \$72,300.....	1		1		...	
Executive Level V, \$68,700.....	2		2		...	
GS-18, \$68,700.....	20		20		...	
GS-17, \$68,700.....	43		43		...	
GS-16, \$61,296 - \$68,700.....	77		77		...	
GS/UM-15, \$52,262 - \$67,940.....	308		308		...	
GS/UM-14, \$44,430 - \$57,759.....	1,194		1,204		10	
GS/UM-13, \$37,599 - \$48,876.....	5,149		5,299		150	
GS-12, \$31,619 - \$41,105.....	1,277		1,283		6	
GS-11, \$26,381 - \$34,292.....	1,384		1,384		...	
GS-10, \$24,011 - \$31,211.....	926		926		...	
GS-9, \$21,804 - \$28,347.....	938		1,053		115	
GS-8, \$19,740 - \$25,662.....	400		400		...	
GS-7, \$17,824 - \$23,170.....	1,686		1,686		...	
GS-6, \$16,040 - \$20,855.....	1,925		1,925		...	
GS-5, \$14,390 - \$18,710.....	2,948		3,038		90	
GS-4, \$12,662 - \$16,723.....	1,680		1,680		...	
GS-3, \$11,458 - \$14,896.....	612		612		...	
Ungraded positions.....	466		466		...	
Total, appropriated positions.....	21,037	\$596,124	21,408	\$606,200	371	\$10,076
Pay above stated annual rates.....	...	2,304	...	2,304	...	...
Lapse.....	-887	-15,388	-791	-21,592	96	-6,204
Net savings due to lower pay scales for part of year.....	...	-5,358	...	...	...	5,358
Net permanent.....	20,150	577,682	20,617	586,912	467	9,230
Average GS/UM Salary.....		(\$27,593)		(\$27,653)		(\$27,160)
Average GS/UM Grade.....		(9.17)		(9.19)		(9.83)

Summary of Requirements by Grade and Object Class (continued)  
(Dollars in thousands)

Object Class	1985 Estimate Workyear Amount	1986 Estimate Workyear Amount	Increase or Decrease Workyears Amount			
11.1 Full-time permanent.....	20,150	\$577,682	20,617	\$586,912	467	\$9,230
11.3 Other than full-time permanent:						
Part-time permanent.....	206	2,661	206	2,598	...	-63
11.5 Other personnel compensation:						
Overtime.....	...	5,000	...	5,000	...	...
Administratively uncontrollable overtime....	1,893	48,071	1,961	48,264	68	193
Other compensation.....	35	7,100	35	7,100	...	...
Total workyear and personnel compensation.....	22,284	640,514	22,819	649,874	535	9,360
12 Personnel benefits.....	...	95,456	...	99,524	...	4,068
13 Benefit to former personnel.....	...	361	...	361	...	...
21 Travel and transportation of persons.....	...	24,256	...	26,703	...	2,447
22 Transportation of things.....	...	6,358	...	6,840	...	482
23.1 Standard level user charges.....	...	54,500	...	56,935	...	2,435
23.2 Communications, utilities and other rent.....	...	54,075	...	56,568	...	2,493
24 Printing and reproduction.....	...	1,197	...	2,287	...	1,090
25 Other services.....	...	67,224	...	80,321	...	13,097
26 Supplies and materials.....	...	30,595	...	32,332	...	1,737
31 Equipment.....	...	225,640	...	170,369	...	-55,271
32 Lands and structures.....	...	12,782	...	13,120	...	338
42 Insurance claims and indemnities.....	...	360	...	360	...	...
91 Unvouchered.....	...	70	...	70	...	...
Total obligations.....	22,284	1,213,388	22,819	1,195,664	535	-17,724
Unobligated balance, start-of-year.....		-63,000		-10,000		63,000
Unobligated balance, end-of-year.....		10,000		...		...
Total requirements.....		1,160,388		1,185,664		25,276
Relation of obligations to outlays:						
Total obligations.....		1,213,388		1,195,664		
Obligated balance, start-of-year.....		188,918		269,353		
Obligated balance, end-of-year.....		-269,353		-289,742		
Outlays.....		1,132,953		1,175,275		

Federal Bureau of Investigation

Status of Construction

1. Engineering Building - The Engineering Building in the schematic phase of construction and will be completed in October 1988. Funding of \$1,660,000 for architectural and engineering studies was obligated in 1984. Of the \$1,400,000 for site preparation, \$295,100 has been committed thus far in 1985. The balance will be committed in 1985. The funding of \$9,982,000 for construction will not be obligated until 1986. In addition, \$82,212 has been committed in 1985 for a study of DEA laboratory requirements and the acoustic chamber.
2. Dormitory/Classroom - The Dormitory/Classroom is in the design phase of construction and will be completed in October 1988. Funding of \$1,134,000 for architectural and engineering design studies was committed in 1984. Of the \$1,400,000 for site preparation, \$295,100 has been committed thus far; the balance will be committed in 1985. It is estimated that construction costs will require \$13,120,000 and this amount is included in the 1986 request.
3. Hostage Rescue Team (HRT) Administration Building - The HRT Administration Building will be completed in July 1985. Funding of \$42,600 for architectural and engineering design studies was obligated in 1984. It is estimated that the total construction cost will be \$758,663; \$694,000 committed in 1984 and \$64,663 to be committed in 1985. A reprogramming was made in 1984 to provide for the construction of the building.

## GENERAL STATEMENT

Mr. SMITH. We have with us the Director of the Federal Bureau of Investigation, Mr. William Webster. Mr. Webster, please proceed with your statement.

Mr. WEBSTER. Thank you, Mr. chairman.

Today represents my eighth appearance before this Subcommittee and I want to recognize and thank you and the other Members of your Subcommittee for your support of the FBI.

We are also happy to know that Congressmen Boland, Regula and Rogers have been added to the oversight responsibilities of the FBI.

Mr. Chairman, pending before your Subcommittee is a mixture of increases and decreases to the resources of the FBI with which we operate today. The increases address the expanding responsibilities being levied upon the FBI while the decreases recognize the fiscal environment of today.

With regard to the increases, first before your subcommittee is a supplemental request for this fiscal year—fiscal year 1985—for 96 agent and 52 support positions and \$1.5 million to carry out provisions of the Comprehensive Crime Control Act of 1984. This Act increases the responsibilities and, consequently, the resource requirements of the FBI in its organized crime, white-collar crime and domestic terrorism programs and in the enforcement of our seizure and forfeiture of assets authorities.

Also pending before your Subcommittee is our fiscal year 1986 appropriation request which is for 21,408 positions and \$1,185,664,000. This request includes an enhancement of 371 positions, representing a 1.8 percent increase, and an enhancement of \$34,535,000, in budget authority, representing a 3 percent increase over fiscal year 1985. These increases are for our investigative operations.

Although there may be some modest reordering of funding among programs, as we proceed through fiscal year 1986, the funding level requested will allow us to continue our important investigative thrusts as well as our automation and secure voice radio communications initiatives which I have addressed in prior years.

Fiscal year 1986 funding will also meet the urgent need to expand the dormitory and classroom space requirements at the FBI Academy at Quantico, Virginia. Training at the FBI Academy has dramatically increased in both volume and sophistication in recent years and has badly outstripped available facilities. While the Forensic Science Research and Training Center was constructed in 1981, there was no expansion of dormitory space to accommodate this expanded training. Personnel increases appropriated in recent years have also tremendously strained the facilities at the Academy. Site preparation funding was provided in fiscal year 1985 and \$13.1 million in fiscal year 1986 base funding will make the needed dormitory a reality.

Fiscal year 1986 funding will also permit continuation of the National Center for the Analysis of Violent Crime. The National Center for the Analysis of Violent Crime was established in 1984 and will continue in 1985 through funding provided from other components of the Department of Justice. The National Center for the Analysis of Violent Crime is a behavioral science and data processing resource center which consolidates research, training,

and investigative support functions for the purpose of providing expertise to law enforcement agencies which are confronted with unusual, bizarre, and/or particularly vicious or repetitive violent crimes.

Mr. Chairman, I again request your favorable consideration of our budgetary request. I have a more detailed submission, regarding our fiscal year 1986 request, which is being furnished for the record. I will be glad to discuss any question you have at this time.

[The Narrative Detail and Supporting Exhibits follow:]



NARRATIVE DETAIL AND SUPPORTING EXHIBITS

Fiscal Year 1986 Appropriation Request

Federal Bureau of Investigation

The following exhibits and narrative detail depict the funding requested for Fiscal Year 1986 and comparisons of this request with those of previous years:

LIST OF EXHIBITS  
(Director's Statement)

<u>Exhibit No.</u>	<u>Title</u>
1	Comparison: Funds and Personnel Required Fiscal Year 1985 vs. 1986
2	Summary of Adjustments to Base, Fiscal Year 1986
3	Chart: Funding Request by Classification, Fiscal Year 1986
4	Chart: FBI Appropriations, FY 1974 - FY 1986
5	Chart: FBI Direct Funded Workyears, FY 1975 - FY 1986
6	Chart: FY 1984 Direct Funding Usage of Agent Work- years in Field Programs
7	Recruitment of Minorities and Women
8	Chart: Organization of the FBI
9	Foreign Liaison - Legal Attaches
10	Chart: FBI Foreign Liaison Operations
11	Organized Crime Investigations
12	Agent Time Spent by Major Category of Organized Crime Investigations: FY 1984
13	Chart: Agent Time Spent by Major Category of Organized Crime Investigations, Fiscal Year 1984
14	Chart: Organized Crime Investigative Matters Received, Fiscal Years 1980 - 1986
15	Agent Time Spent by Major Category of Organized Crime Drug Enforcement Task Force Investigations: FY 1984
16	Chart: Agent Time Spent by Major Category of Organized Crime Drug Enforcement Investigations, Fiscal Year 1984
17	The White-Collar Crime Program
18	Agent Time Spent by Major Category of White-Collar Crime Investigations: FY 1984

<u>Exhibit No.</u>	<u>Title</u>
19	Chart: Agent Time Spent by Major Category of White-Collar Crime Investigations: Fiscal Year 1984
20	Chart: White-Collar Crime Convictions, Fiscal Years 1977 - 1984
21	Foreign Counterintelligence Program
22	Terrorism Investigations
23	Agent Time Spent by Major Category of Domestic Terrorism Investigations, FY 1984
24	Personal Crimes Program
25	Agent Time Spent by Major Category of Personal Crimes Investigations: FY 1984
26	Chart: Agent Time Spent by Major Category of Personal Crimes Investigations: Fiscal Year 1984
27	Chart: Personal Crimes Convictions in Federal Court, Fiscal Years 1980 - 1984
28	Fugitive Program
29	Agent Time Spent by Major Category of Fugitive Investigations: FY 1984
30	Chart: Agent Time Spent by Major Category of Fugitive Investigations, Fiscal Year 1984
31	Chart: Unlawful Flight and Other Fugitives Arrested by the FBI, Fiscal Years 1980 - 1984
32	Civil Rights Investigations
33	Agent Time Spent by Major Category of Civil Rights Investigations: FY 1984
34	Chart: Civil Rights Cases Received by the FBI, Fiscal Years 1980 - 1984
35	General Government Crimes Program
36	Agent Time Spent by Major Category of General Government Crimes Investigations: FY 1984

<u>Exhibit No.</u>	<u>Title</u>
37	Chart: Agent Time Spent by Major Category of General Government Crimes Investigations: Fiscal Year 1984
38	Chart: General Government Crimes Convictions in Federal Court, Fiscal Years 1980 - 1984
39	General Property Crimes Program
40	Agent Time Spent by Major Category of General Property Crimes Investigations: FY 1984
41	Chart: Agent Time Spent by Major Category of General Property Crimes Investigations: Fiscal Year 1984
42	Chart: General Property Crimes Convictions in Federal Court, Fiscal Years 1980 - 1984
43	FBI Informants
44	FBI Training
45	Police Training Operations
46	Chart: Field Police Training - Hours of Instruction by Geographical Distribution
47	Laboratory Services
48	FBI Laboratory Accomplishments
49	Current FBI Laboratory Research and Training Efforts
50	Chart: FBI Laboratory Examinations, Fiscal Years 1981 - 1986
51	Chart: FBI Laboratory Assistance to Non-Federal Law Enforcement Agencies: FY 1984
52	Fingerprint Work Operations
53	Fingerprint Work Accomplishments
54	Automation of Fingerprint Work Operations
55	Chart: Fingerprint Receipts, Fiscal Years 1980 - 1986
56	Chart: Number of Fingerprint Cards on File
57	Automatic Data Processing and Telecommunications Program (ADPT)

<u>Exhibit No.</u>	<u>Title</u>
58	Chart: Professional ADP Personnel Utilization Fiscal Year 1984 Annual Summary
59	Chart: Computer Center Resources Distribution Fiscal Year 1984 Annual Summary
60	National Crime Information Center (NCIC)
61	Chart: Breakdown of Records in NCIC Computer
62	Uniform Crime Reporting
63	Chart: Crime in the United States - Percentage Change Calendar Years 1979 vs. 1983

COMPARISON: FUNDS AND PERSONNEL REQUIRED  
FISCAL YEAR 1985 VS. 1986

	FISCAL YEAR 1985	FISCAL YEAR 1986	INCREASE (+) DECREASE (-)
PERSONNEL (FULL-YEAR EMPLOYEES):			
FBI Headquarters:			
Special Agents.....	784	794	(+) 10
Support Personnel.....	6,603	6,643	(+) 40
Total (FBIHQ).....	<u>7,387</u>	<u>7,437</u>	(+) <u>50</u>
Field:			
Special Agents.....	7,955	8,184	(+) 229
Support Personnel.....	5,014	5,202	(+) 188
Total (Field).....	<u>12,969</u>	<u>13,386</u>	(+) <u>417</u>
Total:			
Special Agents.....	8,739	8,978	(+) 239
Support Personnel.....	<u>11,617</u>	<u>11,845</u>	(+) <u>228</u>
Total (FBIHQ & Field).....	<u>20,356</u>	<u>20,823</u>	(+) <u>467</u>
FUNDS:			
PERSONNEL COMPENSATION.	\$640,514,000	\$649,874,000	(+) 9,360,000
OTHER EXPENSES:			
Personnel Benefits.....	95,456,000	99,524,000	(+) 4,068,000
Benefits to Former Personnel.....	361,000	361,000	...
Travel and Transportation of Persons..	24,256,000	26,703,000	(+) 2,447,000
Transportation of Things.....	6,358,000	6,840,000	(+) 482,000
Standard Level User Charges (SLUC).....	54,500,000	54,500,000	...
Communications, Utilities, and other Rent.....	54,075,000	56,568,000	(+) 2,493,000
Printing and Reproduction.....	1,197,000	2,287,000	(+) 1,090,000
Other Services.....	66,224,000	72,756,000	(+) 6,532,000
Supplies and Materials.	30,595,000	32,332,000	(+) 1,737,000
Equipment.....	173,640,000	170,369,000	(-) 3,271,000
Lands and Structures...	12,782,000	13,120,000	(+) 338,000
Insurance Claims and Indemnities.....	360,000	360,000	...
Unvouchered.....	<u>70,000</u>	<u>70,000</u>	...
SUBTOTAL, OTHER EXPENSES.....	<u>519,874,000</u>	<u>535,790,000</u>	(+) <u>15,916,000</u>
TOTAL, ALL EXPENSES.....	<u>\$1,160,388,000</u>	<u>\$1,185,664,000</u>	(+) <u>\$25,276,000</u>

Exhibit No. 1

Federal Bureau of Investigation  
Salaries and expenses  
Summary of Adjustments to Base  
(Dollars in thousands)

	<u>BGT AUTH</u>
Savings resulting from management initiatives.....	-\$21,518
Uncontrollable increases:	
Annualization of 1985 proposed supplemental.....	5,100
Annualization of 1985 pay increases.....	8,625
Restoration of reduction for change in hourly rate.....	1,697
Annualization of additional positions approved for 1985.....	4,044
Within-grade increases.....	7,288
Health benefits costs.....	1,233
Federal Employees' Compensation Act (FECA) - Workers' Compensation.....	136
GPO printing costs.....	65
GSA recurring reimbursable services.....	381
Federal Telecommunications System (FTS).....	659
C & P Telephone Company Telecommunications.....	334
General pricing level adjustment.....	11,779
Cost escalation - replacement automobiles.....	1,000
Cost escalation - payments to the Department of State.....	350
Annualization of construction requirements for Dormitory/Classroom Building at the FBI Academy.....	10,320
Total uncontrollable increases.....	\$53,011
Decreases:	
Nonrecurring costs - study concerning redesign of the National Crime Information Center (NCIC).....	-\$2,000
Nonrecurring costs - AIDS III.....	-5,381
Nonrecurring costs - construction of Engineering Section Building at the FBI Academy.....	-9,982
Nonrecurring costs - Voice Privacy FM radio equipment.....	-16,418
Nonrecurring costs - Telephone equipment.....	-1,000
Offsites OCDE.....	-1,000
Total decreases.....	-\$35,781
1986 Base.....	<u>\$1,156,100</u>

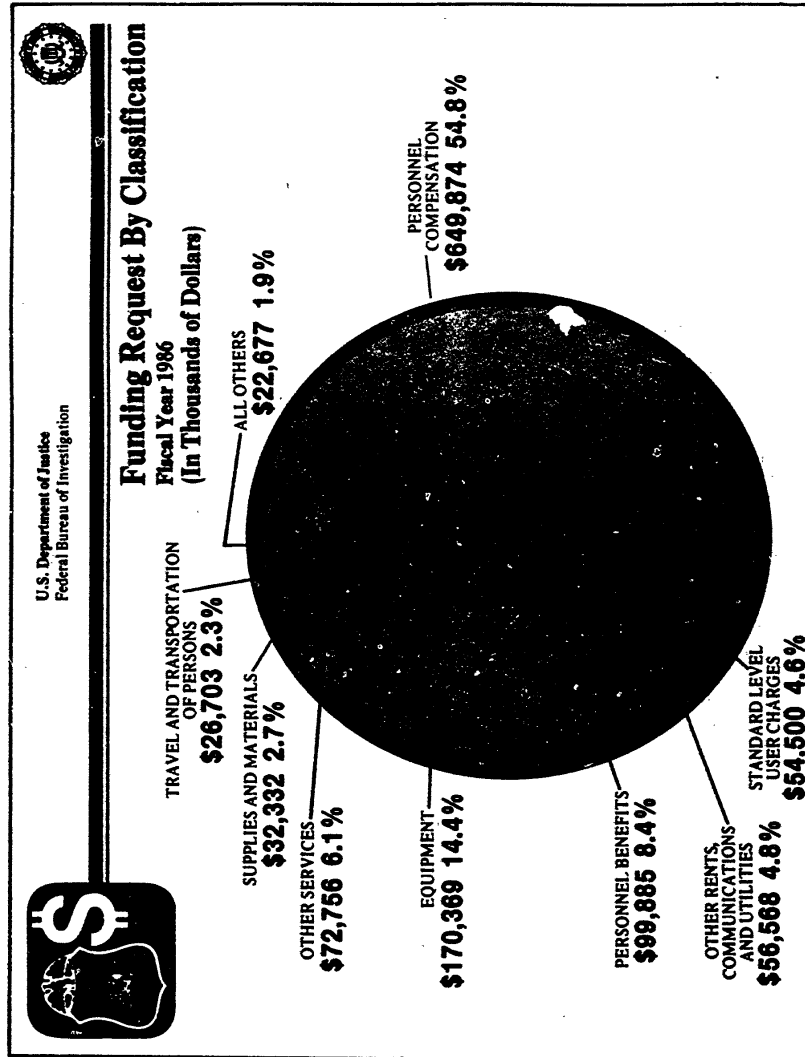


Exhibit No. 3





U.S. Department of Justice  
Federal Bureau of Investigation

# **FBI APPROPRIATIONS** FISCAL YEARS (1974-1986) IN MILLIONS OF DOLLARS

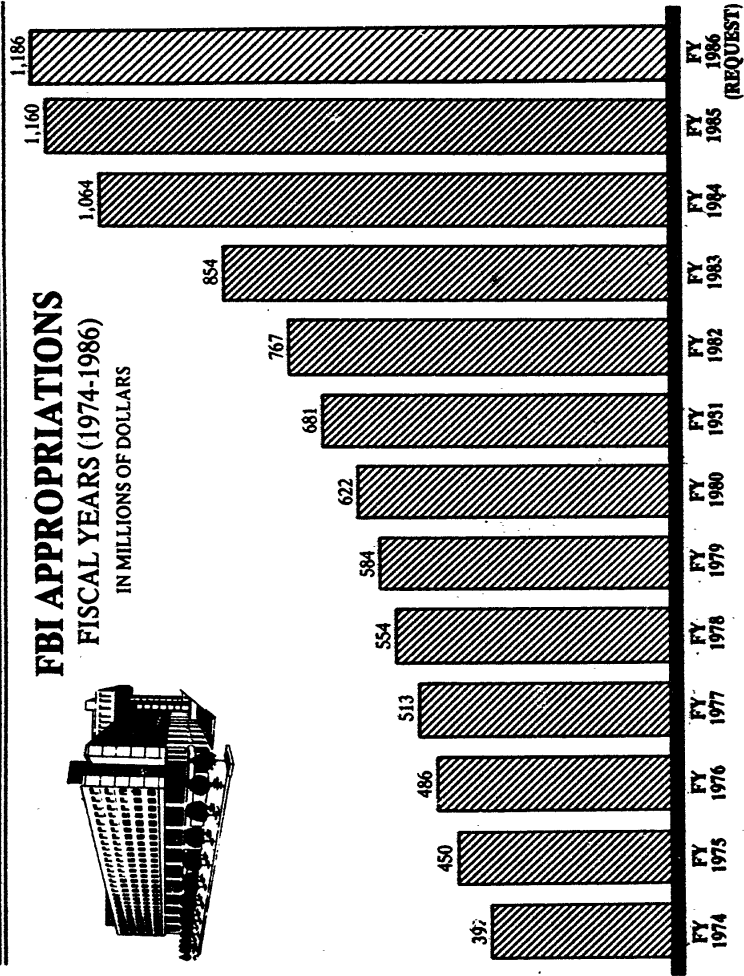
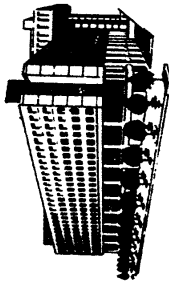
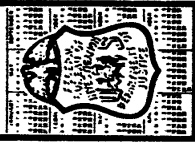


Exhibit No. 4

U.S. Department of Justice  
Federal Bureau of Investigation



# FBI Direct Funded Work-Years

FY 1975 - FY 1986

▨ AGENTS  
□ SUPPORT PERSONNEL

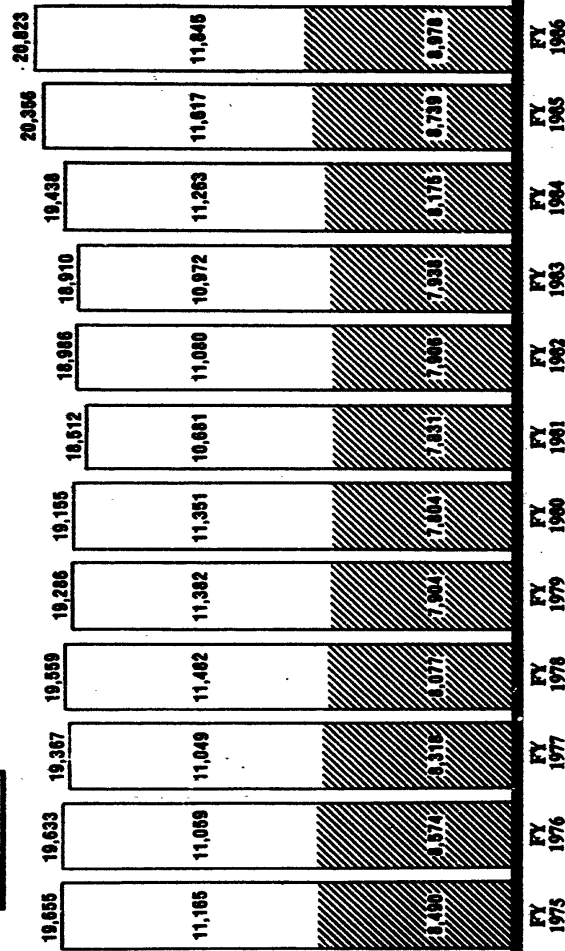


Exhibit No. 5

INVESTIGATIVE PROGRAMS

THE FBI'S PRINCIPAL BUDGET ACTIVITY, CRIMINAL, SECURITY, AND  
OTHER INVESTIGATIONS, IS DIVIDED INTO EIGHT GENERAL FIELD PROGRAM AREAS.  
THESE AREAS AND THE FISCAL YEAR 1984 UTILIZATION OF AGENT WORK-YEARS  
THEREIN ARE SHOWN IN THE FOLLOWING EXHIBIT:

U.S. Department of Justice  
Federal Bureau of Investigation



# **FY 1984 Direct Funding Usage of Agent Workyears in Field Programs** (Includes Field Supervisors)

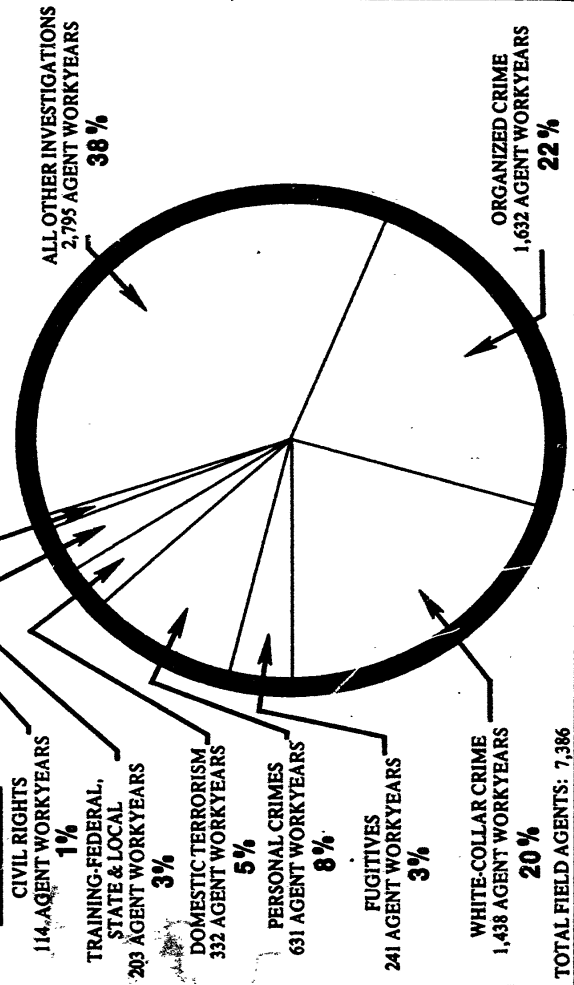
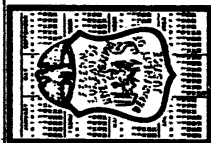


Exhibit No. 6

## EQUAL EMPLOYMENT OPPORTUNITY WITHIN THE FBI

THE FBI IS COMMITTED TO CONTINUING ITS EFFORTS TO INCREASE REPRESENTATION OF MINORITIES AND WOMEN IN ITS RANKS, WITH PARTICULAR REGARD TO THE SPECIAL AGENT POSITION. A SIGNIFICANT NUMBER OF MINORITY AND FEMALE SPECIAL AGENTS HAVE BEEN SELECTED FOR NEW AGENTS TRAINING IN THE PAST SEVERAL YEARS. THIS WAS ACCOMPLISHED BY TARGETING RECRUITMENT EFFORTS AT ALL LOGICAL SOURCES. FOLLOWING IS AN EXHIBIT WHICH CONTAINS INFORMATION ON THE FBI'S EQUAL EMPLOYMENT OPPORTUNITY ACCOMPLISHMENTS.

RECRUITMENT OF MINORITIES AND WOMENMinority and Women Special Agents as of 1/31/85

	<u>Field</u>	<u>FBIHQ</u>	<u>Total</u>	<u>Since 2/28/78</u>	
				<u>Gain or Loss</u>	<u>Percentage Increase</u>
Black	293	23	316	+172	119.4
Hispanic	312	14	326	+171	110.3
American Indian	31	6	37	+22	146.7
Asian American	87	6	93	+59	173.5
Women	567	20	587	+493	524.5

Percentage of Minority and Women Special Agents as of 1/31/85

<u>Group</u>	<u>Number of Men</u>	<u>Percent of Total</u>	<u>Number of Women</u>	<u>Percent of Total</u>	<u>Total by Group</u>	<u>Percent of Total</u>
White	7,491	91.4	520	88.5	8,011	91.2
Black	285	3.5	31	5.3	316	3.6
Hispanic	299	3.6	27	4.6	326	3.7
Am. Indian	33	.4	4	.7	37	.4
Asian Am.	88	1.1	5	.9	93	1.1
TOTALS	8,196	100.0%	587	100.0%	8,783	100.0%
ALL MINORITIES						
	705	8.6%	67	11.5%	772	8.8%

PERCENTAGE OF MINORITY AND WOMEN SUPPORT PERSONNEL

	<u>TOTAL</u>	<u>PERCENT</u>
Support Personnel	12,030	100.0%
Men	3,547	29.5%
Women	8,483	70.5%
Black	3,645	30.3%
Hispanic	288	2.4%
American Indian	25	.2%
Asian American	159	1.3%
All Minority	4,117	34.2%

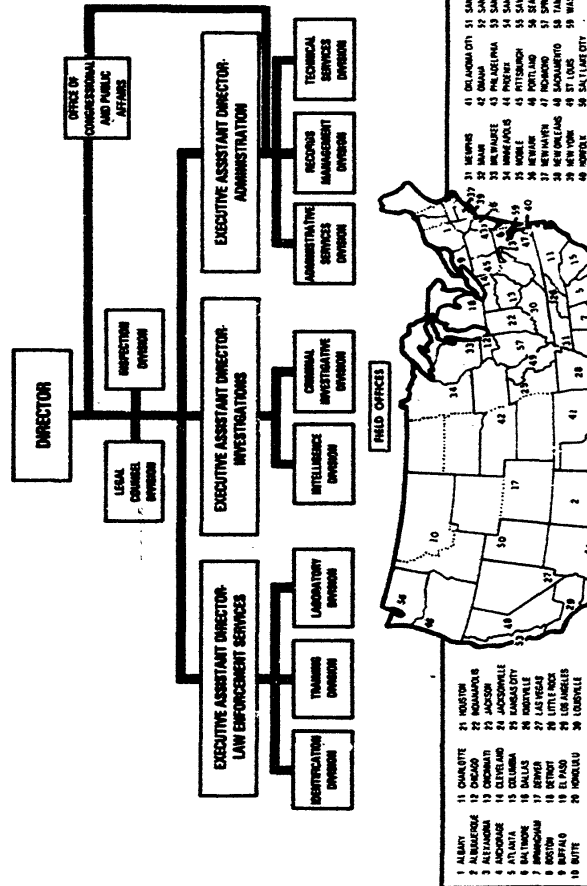
ORGANIZATION OF THE FBI

THE FBI IS A FIELD-ORIENTED ORGANIZATION IN WHICH TEN DIVISIONS AT FBI HEADQUARTERS PROVIDE PROGRAM DIRECTION, SUPPORT SERVICES, AND COORDINATION TO 59 FIELD OFFICES, 407 RESIDENT AGENCIES, AND 13 FOREIGN LIAISON POSTS. EACH FIELD OFFICE, EXCEPT NEW YORK WHICH IS HEADED BY AN ASSISTANT DIRECTOR, HAS A SPECIAL AGENT IN CHARGE, WHO IS RESPONSIBLE FOR DEPLOYMENT OF PERSONNEL SO AS TO HANDLE EFFECTIVELY ALL FBI MATTERS WITHIN ITS GEOGRAPHICAL TERRITORY. AGENTS AT LIAISON POSTS ABROAD ACT AS A LIAISON IN CONNECTION WITH CRIMINAL AND OTHER MATTERS WITHIN THE FBI'S JURISDICTION. OF THE TOTAL AMOUNT REQUESTED BY THE FBI FOR 1986, 62.6 PERCENT, OR \$741,713,000, IS FOR FIELD INVESTIGATIVE OPERATIONS AND THEIR COORDINATING ELEMENTS. THIS DOES NOT INCLUDE HEADQUARTERS SUPPORT WHICH INCLUDES ADP OPERATIONS, INVESTIGATIVE DIRECTION, AND TECHNICAL FIELD SUPPORT AND EQUIPMENT FUNDING, ALL OF WHICH SUPPORT BOTH FIELD AND HEADQUARTERS ACTIVITIES. EXHIBITS FOLLOW THAT SHOW THE ORGANIZATION OF FBI HEADQUARTERS, THE LOCATION OF FIELD OFFICES AND FOREIGN LIAISON POSTS, AND ADDITIONAL INFORMATION CONCERNING PERSONNEL ASSIGNED TO THE FOREIGN POSTS:



U.S. Department of Justice  
Federal Bureau of Investigation

# Organization Of The FBI





FOREIGN LIAISONLEGAL ATTACHES

This program is designed to provide a continuing and prompt exchange of information and assistance with foreign law enforcement and other agencies in order to insure that the responsibilities of the FBI are met. The FBI will assist cooperative foreign agencies with their legitimate and lawful investigative interests in the United States.

For over 35 years the FBI has maintained posts abroad known as legal attache offices. There are currently 13 such posts covering more than 80 countries, enabling the 59 field offices and FBI Headquarters to receive a constant and prompt exchange of criminal and other information. They develop and maintain close liaison with relevant and duly authorized law enforcement and other agencies of the countries covered to insure that the domestic responsibilities of the FBI are met in a timely and professional manner.

The program provides the liaison necessary to enable the FBI to fulfill its statutorily mandated responsibilities.

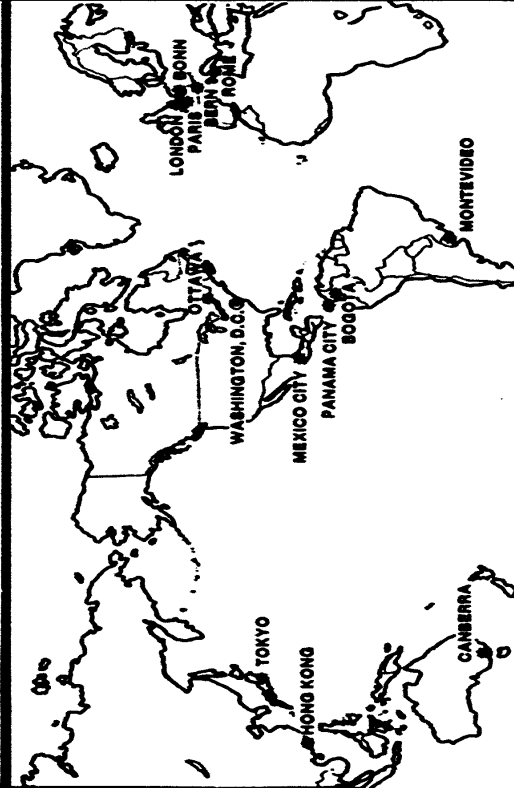
Prior to assigning FBI personnel to foreign countries, the concurrence of the United States Ambassador and the Foreign ministry of the host government must be obtained. The State Department provides office space and other administrative support for the program on a reimbursable basis.



U.S. Department of Justice  
Federal Bureau of Investigation

## FBI Foreign Liaison Operations

The FBI maintains liaison posts abroad in 13 countries. These offices function in a liaison capacity in connection with criminal and intelligence matters involving the FBI's domestic responsibilities. In addition, the FBI corresponds with police agencies throughout the world via INTERPOL. The FBI also arranges to have investigations conducted in the U.S. for foreign law enforcement and other agencies.



NUMBER OF FBI PERSONNEL STATIONED ABROAD (POSITIONS)		Special Agents	Support Personnel
Algeria	1	1	1
Argentina	1	1	1
Australia	1	1	1
Bahamas	1	1	1
Bolivia	1	1	1
Brazil	1	1	1
Canada	1	1	1
Chile	1	1	1
Colombia	1	1	1
Costa Rica	1	1	1
Cuba	1	1	1
Denmark	1	1	1
Ecuador	1	1	1
El Salvador	1	1	1
France	1	1	1
Germany	1	1	1
Ghana	1	1	1
Greece	1	1	1
Haiti	1	1	1
Honduras	1	1	1
Hong Kong	1	1	1
India	1	1	1
Indonesia	1	1	1
Italy	1	1	1
Jamaica	1	1	1
Japan	1	1	1
Jordan	1	1	1
Korea	1	1	1
Laos	1	1	1
Lebanon	1	1	1
Libya	1	1	1
Mexico	1	1	1
Morocco	1	1	1
Netherlands	1	1	1
Nicaragua	1	1	1
Norway	1	1	1
Peru	1	1	1
Puerto Rico	1	1	1
Qatar	1	1	1
Romania	1	1	1
Saudi Arabia	1	1	1
Senegal	1	1	1
Singapore	1	1	1
Slovakia	1	1	1
Slovenia	1	1	1
Somalia	1	1	1
South Africa	1	1	1
Spain	1	1	1
Sweden	1	1	1
Switzerland	1	1	1
Taiwan	1	1	1
Tanzania	1	1	1
Togo	1	1	1
Tunisia	1	1	1
Turkey	1	1	1
Uganda	1	1	1
Ukraine	1	1	1
Uruguay	1	1	1
Venezuela	1	1	1
Yemen	1	1	1
Zambia	1	1	1
Zimbabwe	1	1	1
<b>TOTALS</b>	<b>61</b>	<b>61</b>	<b>61</b>

**TOTAL PERSONNEL-66**

**KEY**

① FBI REPRESENTATIVES STATIONED IN AMERICAN EMBASSIES OR ATTACHES OUTSIDE THE UNITED STATES

MARCH 1, 1985

ORGANIZED CRIME

ONE OF THE FBI'S TOP PRIORITIES IS THE INVESTIGATION OF ORGANIZED CRIME. IN 1986, EFFORTS IN THIS AREA WILL REQUIRE \$122,732,000 AND 2,557 POSITIONS.

DURING THE PAST FISCAL YEAR, 21 PERCENT OF THE TOTAL FIELD AGENT TIME WAS SPENT ON ORGANIZED CRIME INVESTIGATIONS.

ORGANIZED CRIME DRUG ENFORCEMENT (OCDE)

ANOTHER OF THE FBI'S TOP PRIORITIES IS THE INVESTIGATION OF NARCOTICS MATTERS AS THEY RELATE TO ORGANIZED CRIME. IN 1986, EFFORTS IN THIS AREA WILL REQUIRE \$74,428,000 AND 446 POSITIONS.

WHITE-COLLAR CRIME

WHITE-COLLAR CRIME INVESTIGATIONS CONSTITUTE YET ANOTHER TOP PRIORITY OF THE FBI. AS IN ORGANIZED CRIME, WHITE-COLLAR CRIME SOMETIMES INVOLVES PUBLIC CORRUPTION. A TOTAL OF \$144,457,000 AND 2,936 POSITIONS WILL BE NEEDED FOR WHITE-COLLAR CRIME IN FISCAL YEAR 1986. DURING FISCAL YEAR 1984, THE FBI EXPENDED 18 PERCENT OF ITS TOTAL FIELD AGENT WORKYEARS ON WHITE-COLLAR CRIME INVESTIGATIONS. ORGANIZED CRIME, OCDE, AND WHITE-COLLAR CRIME MATTERS ARE DISCUSSED IN THE FOLLOWING EXHIBITS:

ORGANIZED CRIME INVESTIGATIONS

An organized crime investigation is targeted against any member or members of an organized crime group involved in violation of Federal statute(s) specifically aimed at racketeering activities. For the purpose of managing these investigations, an organized crime group is defined as any group having some manner of formalized structure whose primary objective is to obtain money through illegal activities and maintains its position through the use of violence or threat of violence, corrupt public officials, graft, and extortion, and has a significant adverse effect on the people in its locale or region, or the country as a whole. The thrust of the organized crime program is targeted against individuals comprising the major organized crime groups across the country.

Funding for this program for 1986 will provide for an imaginative, responsive, and effective investigative approach directed against the organized criminal element at a sustained level. This funding will provide for continued coverage of already existing programs and permit continued penetration into areas deserving additional investigative attention based on program review. Among those targeted are hoodlum infiltration of legitimate business; labor racketeering; corruption; arson-for-profit; loansharking; and pornographic operations which are national in scope, involve major organized crime figures, or which deal in the use of children. The funding will also permit the FBI to continue to utilize resources in support of joint FBI/Drug Enforcement Administration investigations targeting organized crime related narcotics cartels.

Implementation of a system to enhance organized crime intelligence-gathering capabilities has continued through the use of a computerized data processing network known as the Organized Crime Information System (OCIS). The primary objective of the system is to improve the FBI's ability to collect, analyze, and use investigative data in furtherance of the successful prosecution of organized crime subjects. Funding dedicated to the organized crime program will enable implementation of this system in additional field offices during 1985 and provide for resources in support of personnel to operate this system.

In addition to maintaining active investigative programs targeted at traditional racketeering activities of gambling, corruption, and loansharking, the FBI has continued with a number of programs from the past year, aimed specifically at combating labor-racketeering, hoodlum infiltration of business, arson-for-profit, narcotics trafficking, and major pornography operations. The goal of these programs is to interdict systematically and progressively the sphere of organized crime influence and to reduce its effect on American society.

### The Effect of Organized Crime on Society

While not all inclusive, the following are some of the major areas wherein organized crime affects society as a whole:

Corruption undermines the Nation's civil, judiciary, legislative, and law enforcement bodies, disfranchising citizens of the protection and the governmental functions to which they are entitled.

Businessmen find themselves in competition with racketeers who pour money from their illicit enterprises into legitimate industry and use those untaxed funds to undercut the operations of competitors not enjoying this unfair advantage.

The tax base itself is eroded by significant amounts of dollars being siphoned from the economy without any commensurate return to local, state, or Federal governments.

Gambling and narcotics addicts commit a large portion of street crimes currently plaguing the Nation as they try to supply the needs of their illegal habits.

Labor-racketeering and cartage thefts result in increased insurance rates and transportation costs. They also add substantially to the prices consumers pay for their merchandise.

### The Drug Problem

On January 28, 1982, the Attorney General delegated to the FBI concurrent jurisdiction with the Drug Enforcement Administration (DEA) to investigate violations of the Comprehensive Drug Abuse Prevention and Control Act of 1970. Pursuant to this delegation, the FBI and DEA have developed a closer working relationship and are directing their combined resources against major national and international narcotics cartels and targets. The FBI's role in narcotics investigations is particularly targeted toward drug investigations involving traditional Organized Crime families (La Cosa Nostra), violence-prone, non-traditional Organized Crime groups such as the outlaw motorcycle gangs, and ethnic or racial groups such as the Israeli, Mexican and Black Mafias and La Nuestra Familia. Strong emphasis will also be placed on immobilizing major distributors and organizations involved in the manufacturing, importing, distributing, and financing of illicit controlled substances. Additionally, the FBI assists the DEA in the location and apprehension of major DEA fugitives.

Executive Order 12368, dated June 29, 1982, announced the formulation of policy regarding the coordination and oversight of international and domestic drug abuse. Subsequently, on October 14, 1982, the President directed that twelve task forces be formed to coordinate a nationwide initiative by Federal, state, and local law enforcement agencies targeting major drug traffickers, organized crime figures, and others involved in illicit narcotics activity.

The FBI's Drug Task Force Program is designed to achieve the overall goal by 1) adding new Federal resources for the investigation and prosecution of major drug trafficking organizations; and 2) fostering improved interagency coordination and cooperation in the investigation and prosecution of major drug cases. Achieving these two aims should result in more and better cases against high-level drug traffickers, which in turn, should have an appreciable effect on illegal drug trafficking.

The FBI is now in a position to effectively devote its resources toward a multi-jurisdictional approach against drug violators and their financial assets.

#### The Infiltration Problem

Hoodlum infiltration of labor unions is one of the top priority areas targeted for investigation by the FBI. The primary objective of this program is to identify the organized criminal and corrupt elements involved in the labor field and to successfully prosecute those individuals connected with racketeering activities. Investigations under this program are targeted at uncovering such activities as payoffs and kickbacks resulting from the awarding of contracts or the conduct of day-to-day union activities; the embezzlement of union funds; instances of extortion; and the mishandling of union loans.

Likewise, hoodlum infiltration of legitimate business is a priority investigative area targeted by the FBI. To date, investigations have revealed allegations that such investments not only provide the hoodlums with "show money" for tax purposes, but also make it possible for those involved to "launder" illegal funds, set up front corporations to cover their criminal operations, and to profitably bankrupt companies when they no longer have any use for them.

In most instances, organized crime's movement into business is done quietly. Seldom do mobsters' names appear on corporate records, and fear of reprisal makes complaining victims scarce. Such conditions require current and accurate intelligence data, which can only be obtained through a network of well-placed informants. The FBI has a program for developing informants, and their information has allowed agents to remain cognizant of organized criminal activity in the business community and thus take appropriate action.

#### Investigative Techniques

The FBI is refining and intensifying its use of a number of highly sophisticated and innovative investigative techniques in the fight against organized crime. Included among these are:

1. Undercover agents and storefront operations designed to ferret out large-scale pornographic operations, narcotics trafficking, infiltration of legitimate business, and extensive labor-racketeering activities.

2. Judicially approved electronic surveillance installations and consensual recording devices (both of which are most effective against loansharking and corruption).

3. The assignment of experienced Special Agent Accountants to the review and analysis of labor union records, records of financial institutions, and records of businesses in which there is probable cause to believe a crime has been committed. (This also embraces expanded use of computers to assist in the correlation and review of document examinations of a voluminous nature.)

4. Informants specifically selected and targeted to penetrate the upper echelons of the organized underworld.

5. Miscellaneous techniques, such as aerial surveillance and hypnotism of willing witnesses (The latter is particularly helpful in gangland murder cases.)

#### The Results

Numerous accomplishments were achieved in the fight against organized crime during 1984. There were 1,484 individuals convicted as a result of investigative activity targeted against the organized crime element by the FBI. Among those convicted were several of the most widely known and powerful organized crime figures in the United States. In addition, \$5,327,105 in fines, \$202,104,848 in recoveries, and \$23,514,686 in Potential Economic Loss Prevented (PELP) were realized as a result of investigative efforts expended in the Organized Crime Program.

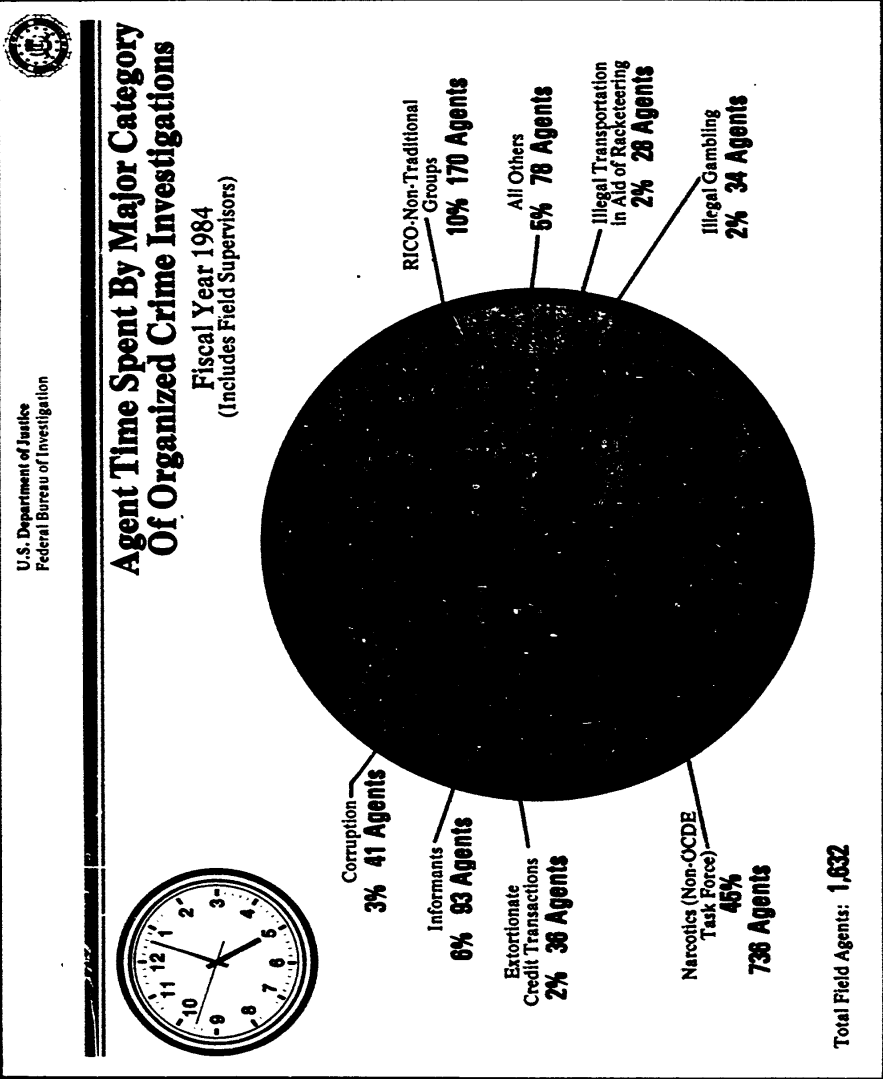
OCDE Task Force cases were designated as such by the Department of Justice in mid-April 1983, and consequently most cases are still in the investigative stages rather than the prosecutive stage. However, during 1984, there were 1,291 individuals indicted; 862 arrested; and 710 convicted as a result of investigations by the OCDE Task Forces. In addition, these investigations resulted in \$3,175,242 in fines and \$71,511,323 in recoveries. Information available to the FBI indicates that the number of indictments and convictions will increase substantially as these cases enter the judicial process over the next two years.

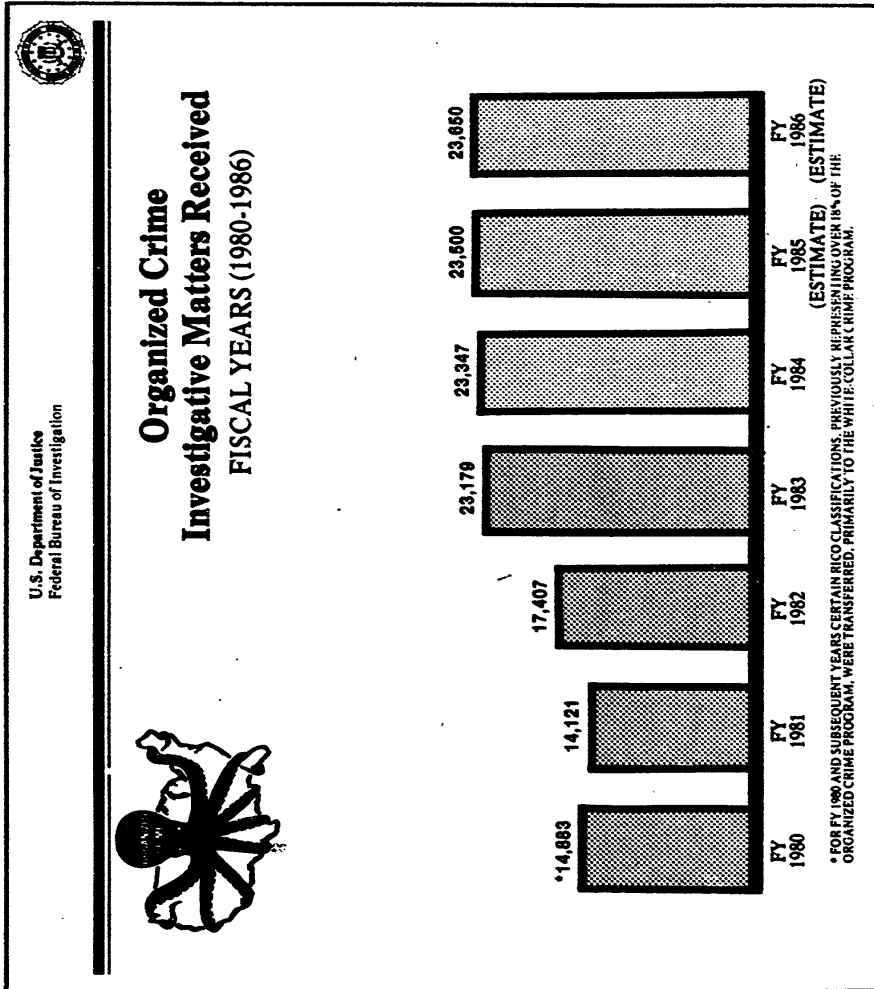
AGENT TIME SPENT BY MAJOR CATEGORY OF ORGANIZED CRIME INVESTIGATIONS, FY 1984

<u>Major Category</u>	<u>Agent Workyears (includes Field Supervisors)</u>	<u>Percent (%) of Program</u>	<u>Percent (%) of Total Field Agent Time</u>
Extortionate Credit Transactions	36	2.25	.55
RICO - Traditional Groups	216	25.55	9.35
RICO - Non-Traditional Groups	170	10.45	3.25
Hobbs Acts - Corruption	21	2.55	.55
Informants	93	5.75	1.25
Illegal Gambling	34	2.15	.45
Illegal Transportation in Aid of Racketeering	28	1.75	.45
Murderies (non-OCDE task force)	736	45.15	9.45
All others	72	3.55	1.05
<b>Total Organized Crime Program</b>	<b>1,632</b>	<b>100.00</b>	<b>20.95</b>

Exhibit No. 12







AGENT TIME SPENT BY MAJOR CATEGORY OF ORGANIZED CRIME DRUG ENFORCEMENT TASK  
FORCE INVESTIGATIONS: FY 1984

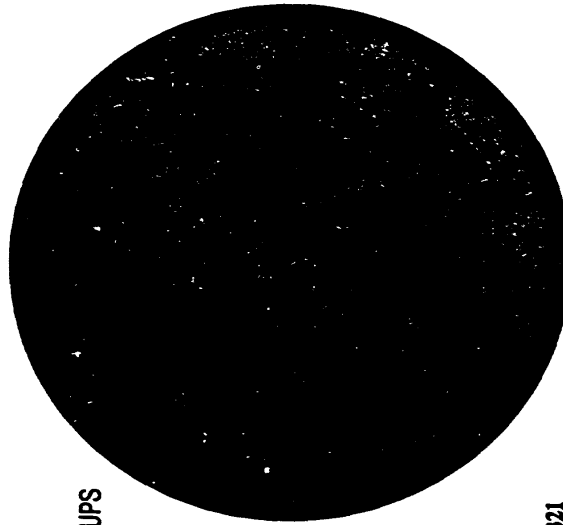
<u>Major Category</u>	<u>Agent Workyears (Includes Field Supervisors)</u>	<u>Percent (%) of Program</u>
Traditional Groups	91	28.4%
Non-Traditional Groups	58	18.1%
All Other	<u>172</u>	<u>53.5%</u>
TOTAL	321	100.0%



U.S. Department of Justice  
Federal Bureau of Investigation

## Agent Time Spent By Major Category Of Organized Crime Drug Enforcement Investigations

FISCAL YEAR 1984  
(Includes Field Supervisors)



Total Field Agents: 321

Exhibit No. 16

THE WHITE-COLLAR CRIME PROGRAMIntroduction:

The Federal Bureau of Investigation utilizes a working definition of white-collar crime as "...those illegal acts that use deceit and concealment rather than the application or threat of physical force or violence to obtain money, property or services; to avoid the payment or loss of money; or to secure business or personal advantages."

The long-range goal of this program is to curtail the incidence of white-collar crimes by investigating those high impact and complex cases most likely to lead to successful prosecutions. This goal is attainable as a result of the diligence of FBI Agents in resolving very sophisticated white-collar crimes. Their expertise is maintained and increased, not only through experience, but also through structured training programs and specialized seminars.

The short-term goal is to provide the investigative concentration and response necessary to support the Administration, through the Attorney General, in achieving its law enforcement goals for addressing criminal conduct on a national basis. The establishment of investigative priorities, consistent with the Attorney General's white-collar crime priorities for all 59 FBI field offices, and the continued monitoring of the investigative actions by all field offices, insures the satisfactory completion of this short-term goal.

It is one of the FBI's principal objectives to detect, investigate, and provide prosecutive support in pursuit of white-collar criminal activities within its investigative jurisdiction. The primary investigative areas of the white-collar crime program are: governmental fraud, public corruption, labor matters, and financial crimes.

White-collar crime investigations involve the use of all the traditional law enforcement techniques, such as: interviews, observation, audits, consensual monitoring, both audio and visual, court-authorized monitoring, undercover operations, gathering of physical evidence, forensic science examinations, and others. Inasmuch as the criminal conduct encountered differs depending on the nature of the crimes alleged, the frequency of application of these techniques varies.

Often, perpetrators of white-collar crimes occupy positions in government, industry, the professions, and civic organizations and are regarded as responsible pillars of their communities. Through the use of their positions of trust, white-collar criminals undermine professional and governmental integrity, and ultimately, are responsible for the loss of billions of dollars annually from the Nation's economy.

During the fiscal year ending September 30, 1984, 18% of the total investigative personnel of the FBI were utilized in conducting white-collar crime investigations. This effort accounted for 39% of the convictions obtained in all FBI investigations during fiscal year 1984. This 39% represents 4,093 individuals convicted, with an additional 356 individuals placed in pretrial diversion programs. Also, more than 10.4 million dollars in fines levied, and potential economic losses of 513.6 million dollars were prevented.

#### Government Fraud:

Addressing criminal allegations of fraud and bribery within the programs and functions of the Federal Government is the nature of governmental fraud cases. The majority of these investigations involved the 13 Departments and 57 Agencies of the Executive Branch, which disburse billions of dollars annually. These funds are used in attaining National goals and/or eliminating specific problems affecting the quality of American life.

Often, these funds are the target of unscrupulous individuals from within as well as from outside the Government. Two groups can be readily identified: 1) those individuals or entities responsible for operating the program or function, and; 2) those individuals and entities who either receive funds to which they are not entitled or misuse the funds received.

The highest priority of all white-collar crime investigations conducted by the FBI is now assigned to governmental fraud cases. Instances of fraud, waste and abuse within the Federal Government must be met by an immediate and effective law enforcement response to insure that the public confidence in Government and its institutions is not undermined.

Since these Governmental fraud matters involve the programs and functions of other Governmental entities, a continuing liaison program is required with the Inspectors General or their equivalent. Also, when investigations highlight deficiencies within a program or function of another agency, this information is made known with the expectation that appropriate preventive measures will be instituted, such as personnel actions, program changes, and/or debarment proceedings, to insure that similar abuses do not occur in the future.

Dissemination of investigative results is also made to the Civil Division of the Department of Justice for the imposition of civil sanctions.

The FBI negotiated a Memorandum of Understanding with each Inspector General in order to delineate areas of responsibility which will insure that no duplication of effort occurs. The efforts of the FBI will be directed toward the investigation of criminal activity which involves Government programs. The efforts of the Inspectors General will be directed at the detection of fraud, waste, and inefficiency and they will conduct, supervise, and coordinate audits and investigations relating to the programs and operations of the respective Federal agencies.

#### Public Corruption:

Abuse of office by elected and/or appointed public officials in violation of Federal criminal statutes and attempts by individuals to cause public officials to abuse their offices in violation of Federal criminal statutes are the basis of the initiation of public corruption investigations by the FBI.

While FBI investigations involve officials at all levels of government, investigative priority and emphasis are provided to those matters involving Federal officials. Due to the large number of local office holders, the volume of matters under investigation has traditionally involved more local and county governments. Public corruption investigations are, for the most part, not undertaken by state and local authorities for a number of reasons, and such investigations have become a major component of the FBI's white-collar crime program.

The FBI's investigative response to public corruption allegations continues to be immediate, aggressive, and thorough. Due regard is given to the integrity and reputation of the individual alleged to have engaged in criminal conduct.

Public corruption investigations utilize all of the traditional investigative techniques, but focus initially upon gathering evidence that will corroborate or refute challenges to the credibility of the individual transmitting the allegations. As the investigation continues, the substance of the allegation is addressed.

Extensive media attention to public corruption investigations on both the regional and national level illustrate and chronicle FBI successes in ferreting out those responsible for damaging the institutions that are the foundation of American democracy.

Labor Matters:

The protection of the rights of union members in addition to investigations of unlawful conduct of both union officials and employers constitute the basis of FBI "Labor Related" investigations.

Criminal statutes, under which the FBI has investigative jurisdiction, cover a wide range of illegal activities that involve both labor and management. Labor violence is the basis for much investigative activity; however, there is frequently no resultant Federal prosecution due to the fact that the violence is an outgrowth of legitimate attempts by unions to organize a particular employing unit.

Accusations of the solicitation of a kickback by a union official are reported more often than are accusations of the offering of a bribe by an employer to a union official; however, both are violations which are investigated by the FBI.

The allegation of the misappropriation of union members' pension funds is investigated with a resultant higher number of convictions than in some labor-related investigations.

In recognition of the serious nature of allegations of labor-related crime and the impact of the involvement of the FBI in the underlying union/management activity from which the alleged criminal conduct has grown, definite investigative jurisdiction is established before initiation of investigations. In light of differing interpretations by courts in various Federal judicial districts, the likelihood of prosecutive consideration is also a prerequisite established before initiation of investigation. Special Agents assigned to investigate labor-related matters secure counsel from appropriate U. S. Attorneys at various stages of the investigations.

Financial Crimes:

White-collar crimes generally categorized as financial crimes are "those schemes to cheat, defraud, steal, embezzle, abstract, purloin, or misapply money, funds securities or credits of individuals and/or institutions by manipulating events, documents or large sums of cash through misrepresentation, falsification, and deceit."

Although variations are endless, the most common crimes are: embezzlements, fraudulent bankruptcies, and check kites.

The fact that information about financial crimes does not come to the attention of the FBI for some time after the crime has occurred, the reluctance of witnesses to become involved, the voluminous records to be analyzed, and the mobility of the perpetrators, all contribute to the degree of complexity and time consumption in these investigations. Nevertheless, only the most complex and significant cases are pursued by the FBI. Local authorities are asked, whenever possible, to handle cases that will not tax their resources.

An increase in the use of consensual monitoring with cooperative witnesses, undercover operations, and financial audits has had a positive effect on the conservation of resources.



AGENT TIME SPENT BY MAJOR CATEGORY OF WHITE-COLLAR CRIME INVESTIGATIONS: FY 1984

<u>Major Category</u>	<u>Agent Workyears (Includes Field Supervisors)</u>	<u>Percent (%) of Program</u>	<u>Percent (%) of Total Field Agent Time</u>
Fraud Against the Government	302	21%	3.9%
Labor Matters	14	1%	.1%
Public Corruption	230	16%	2.9%
Financial Crimes	849	59%	10.9%
All others	43	3%	.6%
<b>TOTAL</b>	<u>1,438</u>	<u>100%</u>	<u>18.4%</u>

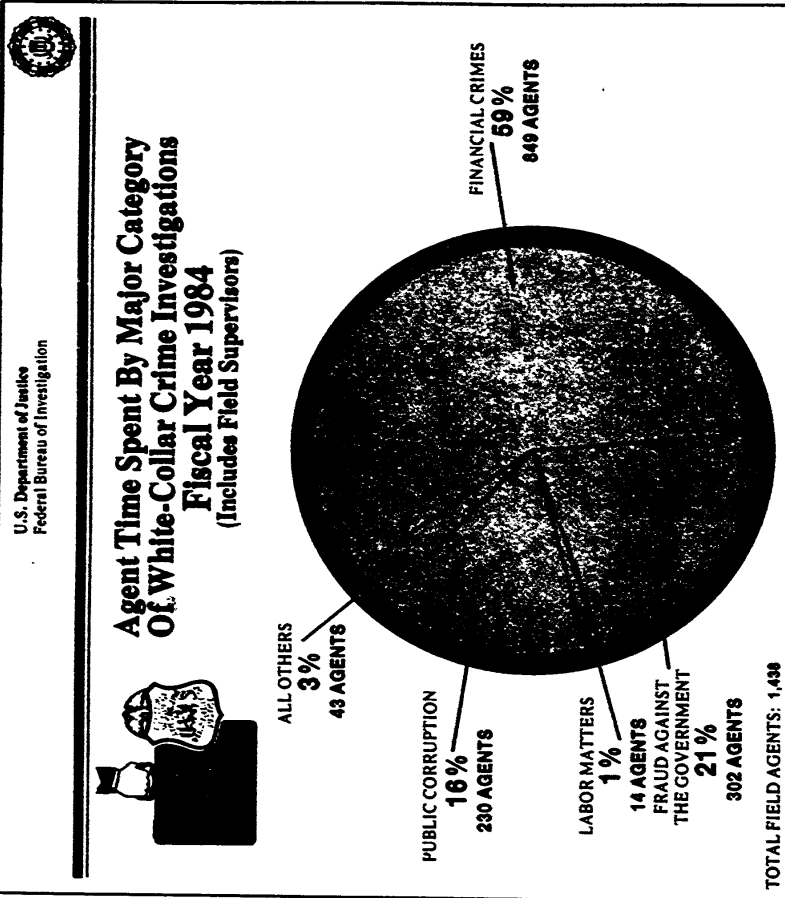


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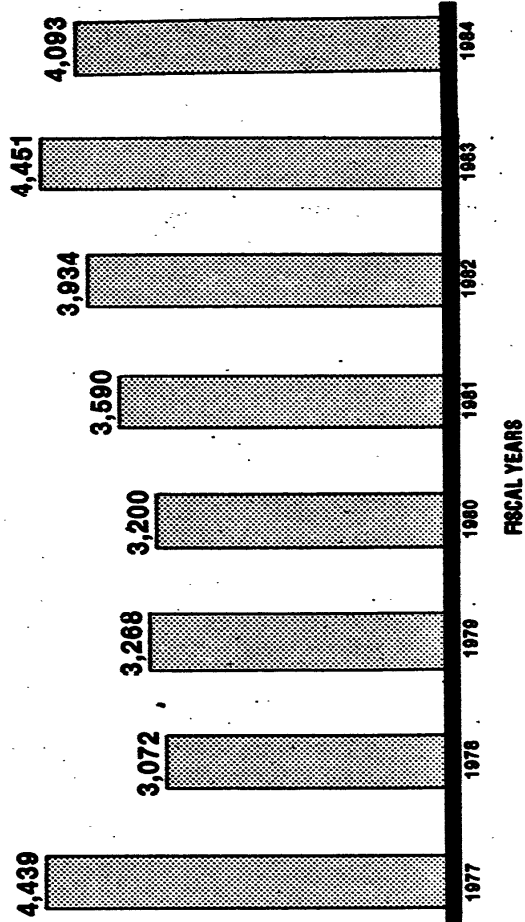
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# White-Collar Crime

Convictions

FISCAL YEARS (1977-1984)



FOREIGN COUNTERINTELLIGENCE (FCI) PROGRAM

The FBI is charged with the responsibility of FCI investigations and foreign terrorist investigations within the United States. This FCI function is derived from various criminal statutes, such as the Espionage Statutes and Registration Acts. In addition, FCI investigations are conducted in accordance with Presidential Directives issued pursuant to the inherent power of the President to protect and defend the Constitution of the United States. Executive Order 12333, issued December 4, 1981, is the current Presidential authority for the FBI's FCI investigations. In compliance with existing Executive Orders, the Attorney General has established guidelines for the conduct of FCI activities in the United States. The first such guidelines became effective May 28, 1976. Within the parameters of these guidelines and statutes, the FBI is given discretion to develop and implement FCI programs.

The FCI mission is to identify and neutralize the threat posed by hostile intelligence services and their agents in the United States and the threat posed by nations, groups, and individuals which constitute the sources of international terrorism. Activities to accomplish this mission include penetration, disruption, expulsion, arrest, and prosecution.

In the course of fulfilling its FCI mission, the FBI serves the policy making levels of the United States Government by providing an overview of foreign intelligence (FI) activities within the United States. As a result, they are assisted in making informed decisions concerning national security requirements. The FBI also furnishes analyses to other agencies of the Executive Branch with specific intelligence responsibilities, enhancing the effectiveness of these agencies in accomplishing their missions. FBI investigative responsibilities have expanded due to a much wider geographic access, increase in numbers of individuals requiring investigation, and the use of sophisticated technical collection equipment on the part of FI personnel.

The FBI has a defined role within the Intelligence Community. Inasmuch as foreign-directed intelligence activities and terrorism are transnational in nature, the FBI must coordinate investigative operations with other United States agencies and cooperating foreign police and security services in order to insure the accomplishment of established FCI objectives. This liaison is a most integral component of the FBI's FCI program.

TERRORISM

ALL TERRORIST ACTIVITY IN THE UNITED STATES FALLS WITHIN THE JURISDICTION OF THE FBI. IT IS THEREFORE IMPERATIVE THAT SUFFICIENT RESOURCES BE ALLOCATED TO ALLOW THE FBI TO COUNTER THE THREAT. SEVERAL EXHIBITS DESCRIBING THIS PROGRAM FOLLOW:

TERRORISM INVESTIGATIONS

Terrorism investigations are undertaken in order to detect, prevent, and/or react to unlawful, violent activities of individuals or groups whose intent is to overthrow the Government; interfere with the activities of a foreign government in the United States; substantially impair the functioning of the Federal Government, a state government, or interstate commerce; or deprive Americans of their civil rights as guaranteed by the Constitution, laws, and treaties of the United States. The authority for these investigations is derived from Federal statutes and Orders from the President or the Attorney General. In addition, violations of certain Federal statutes, which would logically relate to terrorism--such as bombing matters, nuclear extortion, sabotage--and the protection of foreign officials, are handled within the Terrorism Program.

Terrorism is defined as the unlawful use or threatened use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. In order to combat terrorism, quality intelligence must be gathered and acted upon to prevent planned violence from occurring. Intelligence in this regard refers to FBI investigations, together with their resultant product, which ascertain information on the activities of individuals or groups involved in violence and violations of Federal law for the purposes enumerated in the Attorney General's Guidelines.

Domestic security investigations, which represent only a small segment of the Terrorism Program, are based on the Attorney General's Guidelines for Domestic Security/Terrorism Investigations, which became effective in the FBI in April 1983. As of February 1, 1985, there were 13 organizations under investigation based on these Guidelines.

Domestic Security/Terrorism Investigations in the FBI underwent a radical change, both in number and in scope, as a result of the adoption of the Attorney General's Guidelines for Domestic Security/Terrorism Investigations. The FBI's policy of quality over quantity investigations and restricting investigations of individuals to leaders and policy makers has had a major effect on the limitation of domestic security cases.

In recent years, the threat of terrorism to the security of the United States and to the President of the United States has steadily increased. To successfully counter the increasing threat, a redirection of FBI resources was considered necessary by the FBI. The amount of FBI resources directed toward terrorism steadily increased as terrorist activity against United States targets around the world increased. In view of these increased threats, the Director of the FBI decided to elevate terrorism to the status of a national priority program effective October 1, 1982.

Terrorist acts continue to be committed in the United States as evidenced by the assassinations of two Turkish diplomatic personnel by Armenian terrorists and the continued attacks by domestic groups using the names United Freedom Front Red Guerrilla Resistance and Armed Resistance Unit as well as Puerto Rican, anti-Castro Cuban, and Jewish Defense League terrorists.

Due to the acts of violence in the United States which are being perpetrated by terrorist groups, the FBI continues to search for innovative approaches to address this problem. The FBI is developing a computer assisted analytical capability that identifies patterns and traces the connection between terrorist groups, members of the groups, and specific acts of terrorism committed. The analytical capabilities are also utilized to conduct research on terrorist groups and analyze data, so as to produce assessments of the potential danger to the United States posed by these groups. The FBI has also developed a Hostage Rescue Team to respond to and successfully conclude high threat hostage and non-hostage situations, and is continuing its use of special investigative techniques such as aircraft surveillance and technical coverage.

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AGENT TIME SPENT BY MAJOR CATEGORY OF DOMESTIC TERRORISM INVESTIGATIONS: FY 1984

Major Category	Agent Workyears (Includes Field Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Neutrality Matters	3	1%	.1%
RICO - Terrorism	60	18%	.8%
Passport and Visa Matters	3	1%	---
Domestic Security	53	16%	.7%
Atomic Energy Act	3	1%	---
Protection of Foreign Officials	94	28%	1.2%
Domestic and Foreign-Based Bombing Matters	60	18%	.8%
Bombing Matters - Other attempts and actuals	3	1%	---
Espionage - X	10	3%	.1%
Bomb Threats	3	1%	---
Informants	3	1%	---
All others	37	11%	.6%
Total Terrorism Program	332	100%	4.3%



OTHER INVESTIGATIVE RESPONSIBILITIES

IN ADDITION TO ITS EFFORTS IN THE AREAS OF ORGANIZED CRIME, NARCOTICS, WHITE-COLLAR CRIME, TERRORISM, AND FOREIGN COUNTERINTELLIGENCE, THE FBI CONTINUES TO PERFORM A PROMINENT AND IMPORTANT ROLE IN THE INVESTIGATIONS OF MANY OTHER FEDERAL CRIMES. THESE INVESTIGATIONS, PARTICULARLY IN THE FUGITIVE, GENERAL GOVERNMENT, GENERAL PROPERTY, AND PERSONAL CRIMES PROGRAMS, DIRECTLY INVOLVE THE FBI AT THE STREET-LEVEL IN THE ATTACK AGAINST VIOLENT CRIME AND OFTEN FIND FBI AGENTS AND STATE AND LOCAL POLICE OFFICERS AND INVESTIGATORS WORKING TOGETHER TOWARD THEIR RESOLUTION AND PROSECUTION. THESE FOUR PROGRAMS ALSO PROVIDE THE PRIMARY FEDERAL LAW ENFORCEMENT RESPONSE TO CRIMES DIRECTED AGAINST DESIGNATED FEDERAL OFFICIALS, COMMITTED ON OR AGAINST UNITED STATES GOVERNMENT PROPERTY, OR WHERE A FEDERAL INTEREST HAS BEEN RECOGNIZED BY ENACTMENT OF FEDERAL STATUTES.

THE FOLLOWING EXHIBITS RELATE TO THE ABOVE FOUR PROGRAMS, AS WELL AS FBI RESPONSIBILITY IN CIVIL RIGHTS MATTERS AND INFORMANTS.

PERSONAL CRIMES PROGRAM

The "street-crime" nature of many Personal Crimes Program investigations directly involves the FBI in the effort to stem the incidence of violent crimes that affects communities across the Nation. Through this program the FBI addresses a group of criminal offenses sharing the common characteristics of threatened or actual injury or loss of life. These crimes, which include threats, assaults, kidnappings, and assassination of the President, Vice President, Executive Department heads, Supreme Court justices, members of Congress, other designated Federal officials and Federal law officers; bank robberies, kidnappings; extortions; and aircraft hijackings and other crimes aboard an aircraft, often have considerable impact on the communities and individuals involved due to their potential for violence, the high public profile of their victims, and the opportunity for substantial monetary losses.

Personal Crimes Program investigative responsibilities were expanded with the enactment of the Federal Anti-Tampering Act in October 1983 and, more recently, with the May 1984 passage of the Controlled Substance Registrant Protection Act of 1984. The Federal Anti-Tampering Act prohibits the actual or threatened contamination or adulteration of consumer products, while the Controlled Substance Registrant Protection Act of 1984 establishes Federal jurisdiction over certain thefts of controlled substances from manufacturers, distributors, practitioners, or retail outlets.

An individual arrested by FBI Agents at Pueblo, Colorado, in February 1984 was sentenced to two consecutive five-year prison terms for threatening to contaminate grocery items with cyanide unless paid \$500,000. This case marked the first conviction obtained for violation of the Federal Anti-Tampering Act.

Two individuals responsible for the September 1984 armed robbery of a Riverside, Georgia, pharmacy, during which controlled substances were taken and the pharmacist was shot, were identified and arrested by FBI Agents at Atlanta within 24 hours of the crime. These arrests were the first made under the Controlled Substance Registrant Protection Act of 1984.

Investigative efforts within the Personal Crimes Program during 1984 yielded 2,115 informations and indictments, 1,559 arrests and locates, and 2,073 convictions in Federal court. Ninety-seven percent of these convictions were for felony offenses. FBI investigation also contributed to the convictions of another 544 persons who were prosecuted in state or local court for personal crimes in 1984.

AGENT TIME SPENT BY MAJOR CATEGORY OF PERSONAL CRIMES INVESTIGATIONS: FY 1984

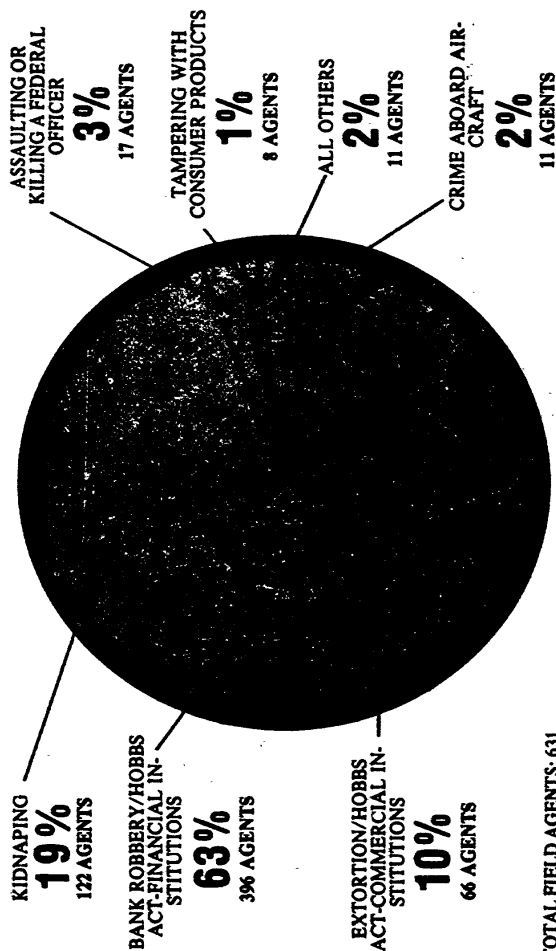
Major Category	Agent Workyears (Includes Field --Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Kidnaping	122	19.4%	1.5%
Extortion/Hobbs Act-Commercial	66	10.4%	.8%
Bank Robbery and Related Crimes	396	62.7%	4.7%
Crimes Aboard an Aircraft	11	1.7%	.1%
Tampering With Consumer Products	8	1.2%	----
Assaulting or Killing a Federal Officer	17	2.9%	.2%
Assaulting, Killing or Kidnaping a Member of Congress, Supreme Court Justice, or Executive Department Head	3	.5	.1%
Assaulting, Killing, or Kidnaping the President, Vice President, or Staff	3	.5	.1%
All Others	5	.7%	----
Total	631	100.0%	7.5%



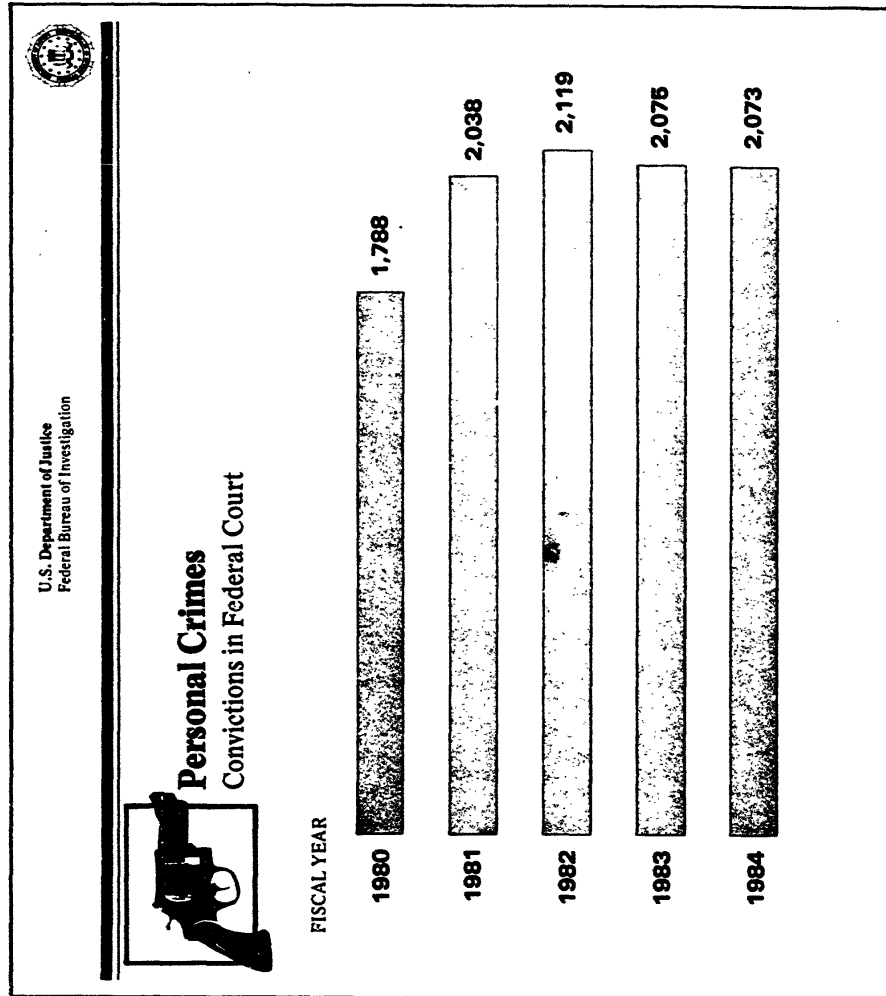
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# **Agent Time Spent By Major Category Of Personal Crimes Investigations Fiscal Year 1984** (Includes Field Supervisors)



TOTAL FIELD AGENTS: 631



FUGITIVE PROGRAM

The FBI's Fugitive Program provides direct assistance, at several different levels, to other Federal, state and local law enforcement agencies. Investigative assistance under this program during 1984 yielded a total of 760 arrests by FBI Agents and the locating of 466 individuals wanted by other law enforcement authorities.

Under provisions of the Unlawful Flight statute, the FBI assists state and local law enforcement agencies seeking felons who cross state boundaries to avoid arrest, prosecution, or confinement. Typically, these fugitives are wanted for violent crimes such as murder, armed robbery, aggravated assault, and rape, while others are charged with narcotics law violations or major property thefts. Individuals wanted for these crimes often comprise the "hard-core" career criminal element whose unchecked activities pose a threat to community safety and property. Additionally, this statute is also used as the basis for investigating the unlawful taking of children by natural parents in defiance of custody decrees. During 1984 the FBI initiated 2,522 new Unlawful Flight investigations at the request of state and local law enforcement, of which 503 were related to custodial kidnappings. Investigative efforts in these cases, as well as 1,931 other Unlawful Flight cases pending at the beginning of the year, resulted in the arrests of 696 individuals by FBI Agents and the locating of another 419 wanted persons.

As part of the FBI's initiative against illegal narcotics traffickers, investigations are conducted to locate and apprehend major Drug Enforcement Administration (DEA) fugitives. These fugitives are Class I and Class II narcotics law violators for whom Federal warrants are outstanding. Since this cooperative effort began in late 1981, DEA has referred 635 individuals to the FBI for investigation, including 121 in 1984. Thirty-six DEA fugitives were apprehended by the FBI in 1984. The FBI also provides assistance to other Federal agencies, at their request.

The FBI also provides assistance to the United States armed forces in locating military personnel deserting under aggravated circumstances. Requests from local law enforcement agencies for laboratory and forensic assistance, as well as locating individuals for interview, are also serviced.

As a member of the International Criminal Police Organization (INTERPOL), the FBI is able to cooperate with foreign police agencies conducting criminal investigations. INTERPOL membership is proving to be a significant complement to the FBI's Legal Attache program in criminal matters.

AGENT TIME SPENT BY MAJOR CATEGORY OF FUGITIVE INVESTIGATIONS: FY 1984

<u>Major Category</u>	<u>Agent Workyears (Includes Field Supervisors)</u>	<u>Percent (%) of Program</u>	<u>Percent (%) of Total Field Agent Time</u>
Unlawful Flight to Avoid Prosecution - Subject Wanted for Violent Crime	156	64.8%	1.9%
Unlawful Flight to Avoid Prosecution - Subject Wanted for Property Crime or Narcotics	21	8.8%	.3%
Unlawful Flight to Avoid Prosecution - Subject Wanted for Parental Kidnaping	14	5.7%	.2%
Unlawful Flight to Avoid Prosecution - All Others	13	5.2%	.1%
Drug Enforcement Administration and Other Federal Agency Fugitives	22	9.2%	.3%
Domestic Police Cooperation	12	5.1%	.1%
All Others	<u>3</u>	<u>1.2%</u>	<u>----</u>
Total	<u>241</u>	<u>100.0%</u>	<u>2.9%</u>

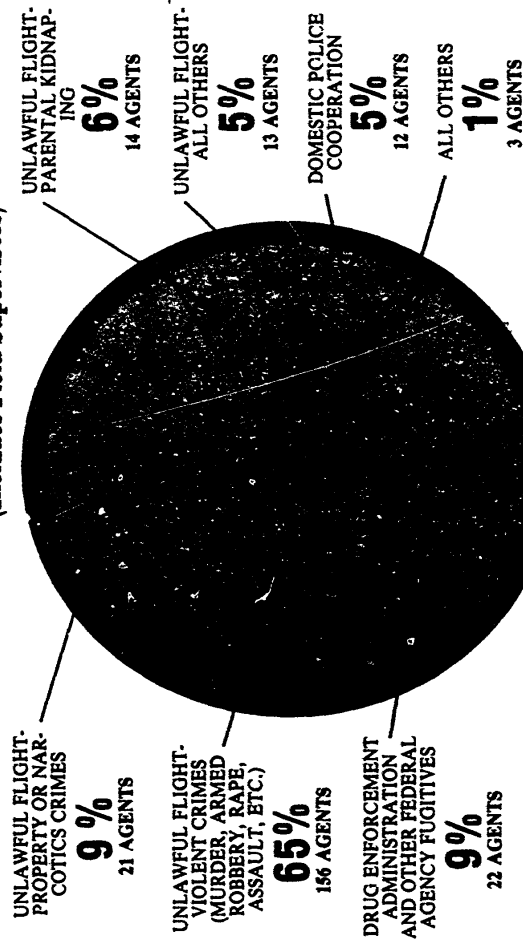


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## Agent Time Spent By Major Category Of Fugitive Investigations Fiscal Year 1984

(Includes Field Supervisors)



TOTAL FIELD AGENTS: 241

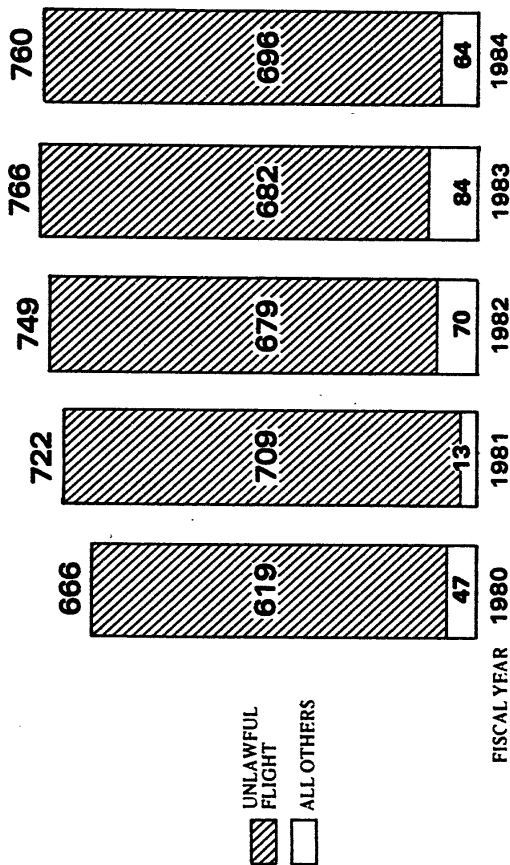




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# **Unlawful Flight and Other Fugitives Arrested by the FBI** Assistance to State and Local Law Enforcement and Other Federal Agencies



CIVIL RIGHTS INVESTIGATIONS

The Civil Rights Program of the FBI investigates matters that involve the actual or attempted abridgment of rights provided to citizens and inhabitants of the United States under the Constitution and laws of the country. The primary objective of this program is to enhance and protect those rights through expeditious investigation of matters within FBI jurisdiction. Both civil and criminal matters are investigated in close coordination with the Civil Rights Division of the Department of Justice.

The FBI investigated 8,137 civil rights cases in fiscal year 1983 and 8,397 cases in fiscal year 1984. It is estimated that between 8,000 and 9,000 civil rights cases will be investigated during the current fiscal year. Civil rights investigations, many of which are extensive, are conducted pursuant to policy established by the Department of Justice.

Resources will also be used in 1985 to provide specialized instructional programs to FBI Field Supervisors and Managers at the FBI Academy, Quantico, Virginia, to enhance managerial and investigative skills of special agents in civil rights investigations, including keeping abreast of the complex Civil Rights Statutes, in order to afford timely, accurate, and effective responses in civil rights matters.

Similar programs will be conducted for local and state law enforcement officers attending the FBI National Academy at Quantico, Virginia, to increase their knowledge concerning Constitutional rights and the special duties and obligations which the law imposes on them in upholding and protecting such rights.

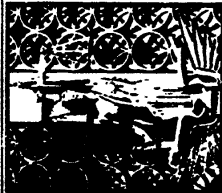
In fiscal years 1983 and 1984, twenty-four hours of instruction were provided per year to 51 FBI Supervisors at the FBI Academy to improve their managerial techniques in civil rights investigations. FBI Headquarters management personnel also provided 24 hours of instruction to each session of the FBI National Academy which is attended by state and local police officers. There were four sessions of the National Academy this year. It is estimated that similar amounts of time will be devoted to instruction in civil rights matters during the current fiscal year. Additionally, two hours of instruction in civil rights matters are provided to each FBI New Agents' class during each fiscal period and various "seminar" type instruction sessions are conducted throughout the field offices as the need arises.

AGENT TIME SPENT BY MAJOR CATEGORY OF CIVIL RIGHTS INVESTIGATIONS: FY 1964

<u>Major Category</u>	<u>Agent Workyears (Includes Field Supervisors)</u>	<u>Percent (\$) of Program</u>	<u>Percent (\$) of Total Field Agent Time</u>
Civil Rights - Investigations involving force or violence	83	72.8%	1.1%
Civil Rights - All other investigations	13	11.4%	.2%
Civil Rights Act of 1964	2	1.7%	...
Discrimination in Housing	9	7.9%	.1%
Involuntary Servitude and Slavery	5	4.4%	.1%
All others	<u>2</u>	<u>1.8%</u>	<u>...</u>
TOTAL	<u>114</u>	<u>100.0%</u>	<u>1.5%</u>

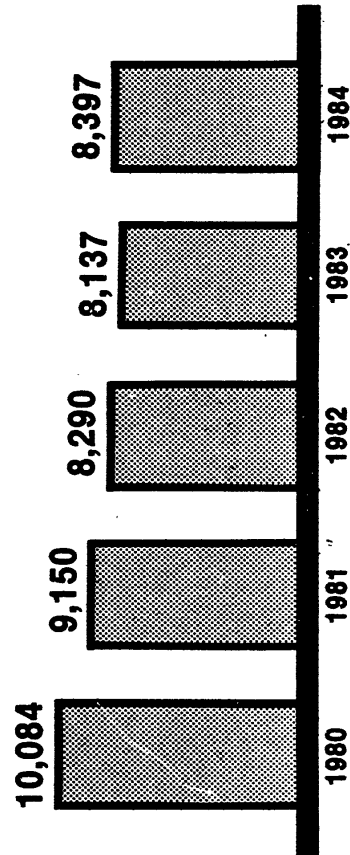


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## Civil Rights Cases Received By The FBI

FISCAL YEARS (1980-1984)



These figures include violations of both criminal & civil statutes

GENERAL GOVERNMENT CRIMES PROGRAM

The United States Government, as a property owner, employer, and supplier of goods and services to its constituent agencies, departments, and the general public, is not immune from the reach of criminals. The FBI, through its General Government Crimes Program, works to reduce the personal and tax dollar impact of such criminal activity.

General Government Crimes Program investigations are directed toward the identification, investigation, and prosecution of criminals and criminal groups engaged in serious personal and major property crimes committed against or on property where the United States Government has jurisdiction, which includes approximately 430 major Department of Defense installations, numerous civilian agency buildings and sites, national parks and recreation areas, approximately 160 Indian reservations, and more than 40 Federal penitentiaries and correctional facilities. Also investigated under this program are cases referred to the Department of Justice by the Selective Service System (SSS) in which an individual is suspected of failing to register with SSS as required by law, individuals impersonating Federal officials, and false identification matters.

A nineteen-month undercover "storefront" operation targeting the thefts and fencing of stolen military field equipment from a southern California military base resulted in the execution of 24 search warrants in nine cities across the country in November 1984. As a result of this "storefront" operation and subsequent dealings with military surplus wholesalers throughout the country, approximately \$1.5 million worth of United States Government property was recovered. Additionally, in December 1984, a Federal grand jury returned 24 indictments charging 65 individuals with conspiracy to sell Government property without authority, unauthorized sale of Government property, and aiding and abetting.

During 1984, 941 individuals were convicted in Federal court for General Government Crimes Program offenses; another 49 persons were convicted in state or local court as a result of FBI investigative efforts. Of these 990 persons, 100 were Federal Government employees. FBI investigations also resulted in the recovery of more than \$7.7 million in stolen or illegally possessed property and the prevention of nearly \$2.4 million in potential economic losses.

AGENT TIME SPENT BY MAJOR CATEGORY OF GENERAL GOVERNMENT CRIMES INVESTIGATIONS: FY 1984

Major Category	Agent Workyears (Includes Field Supervisors)	Percent (%) of Program	Percent (%) of Total Field Agent Time
Thefts of Government Property	55	34.4%	.7%
Crimes on a Government Reservation	45	27.8%	.5%
Selective Service Act	3	2.1%	---
Irregularities in Federal Penal Institutions	9	5.7%	.1%
Imprisonment	10	6.2%	.1%
Crimes on an Indian Reservation	33	20.5%	.4%
All Others	5	3.3%	.1%
Total	160	100.0%	1.9%



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# **Agent Time Spent By Major Category Of General Government Crimes Investigations Fiscal Year 1984**

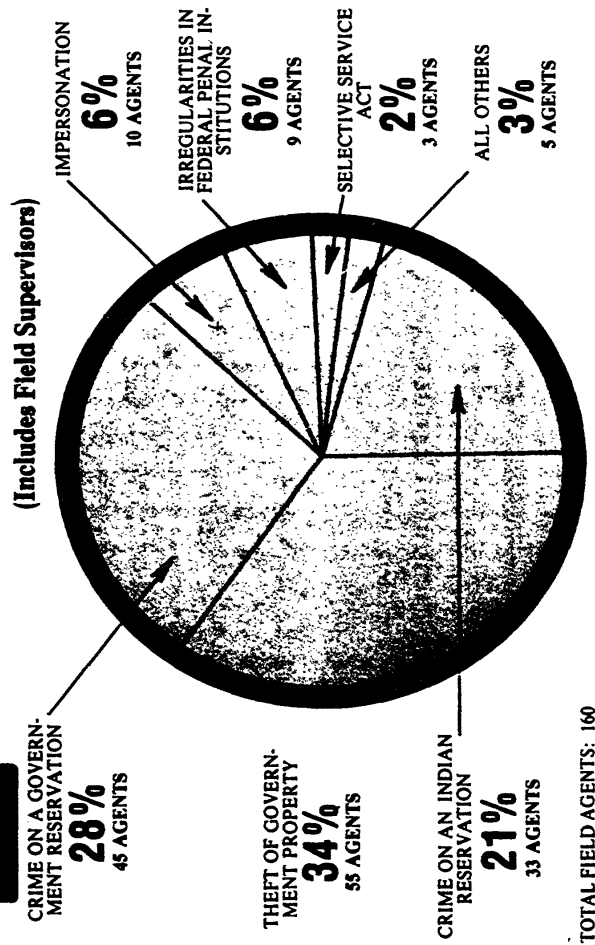
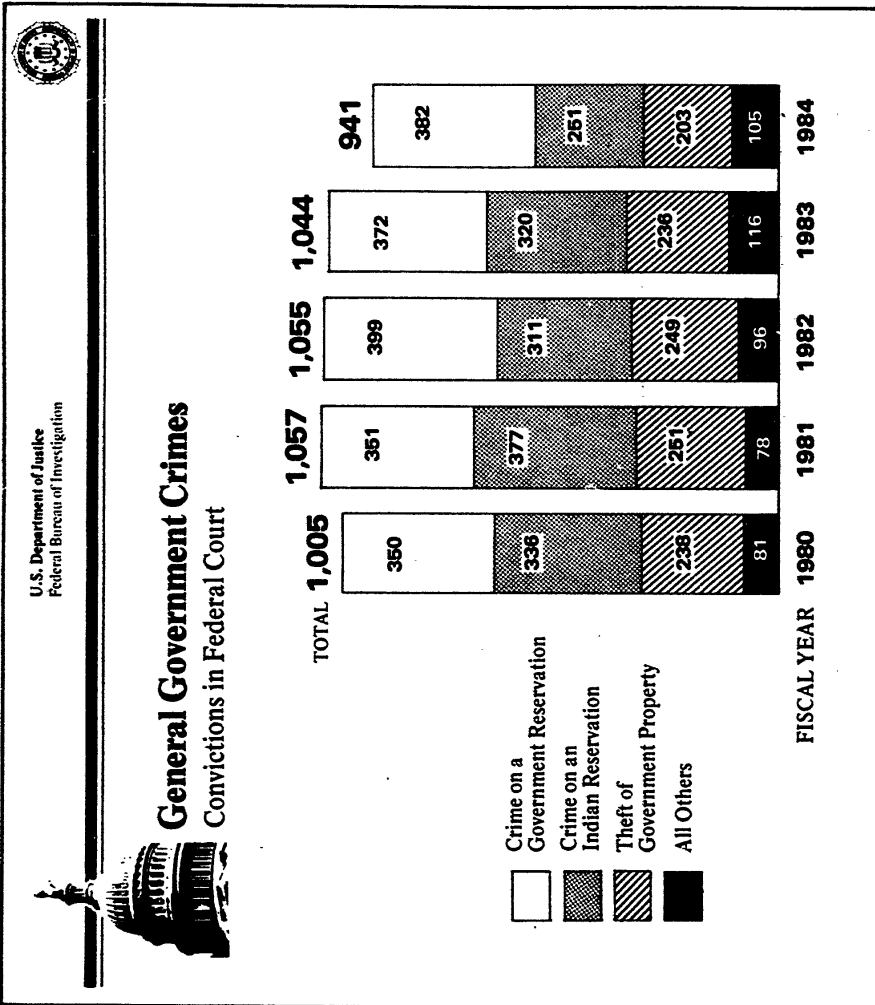


Exhibit No. 37





GENERAL PROPERTY CRIMES PROGRAM

Crime remains a pervasive problem in American society, one that affects millions of citizens and every community across the Nation. More than 12 million violent and property crimes -- one every three seconds -- were reported to state and local law enforcement agencies during 1983 according to Uniform Crime Report data. National Crime Survey data released by the Bureau of Justice Statistics (BJS), Department of Justice, showed that 27 percent of American households -- approximately 23.6 million -- were touched by a crime of violence or theft in 1983. Another BJS study found that a crime of violence occurred in 30 percent of the burglaries committed while someone was at home. A National Institute for Justice report found that more than one million motor vehicles are stolen every year, with an estimated loss of \$3.5 billion. More significantly, the number of vehicles recovered has dropped from 84 percent to 55 percent during the ten-year period ending 1981. The report went on to characterize motor vehicle thefts as becoming dominated by professional criminals.

The FBI's General Property Crimes Program focuses on thefts from interstate shipments, the interstate transportation of stolen goods and motor vehicles, individuals and groups engaged in such criminal activities, and fences buying and selling stolen property. Program investigations often develop links between property crime occurrences, fences, organized crime, and narcotics trafficking. Other program investigations include crimes on the high seas and the destruction of aircraft or motor vehicles. Traditional investigative approaches to property crime occurrences are complemented with the use of undercover operations directed against specific crime problems. Undercover operations enable FBI Agents to identify and penetrate theft rings and fencing operations, obtain intelligence information about criminal activities, and gather evidence against high-echelon criminals who have previously been able to insulate themselves against direct lines of complicity in illegal activities.

Four individuals were arrested by FBI Agents at Memphis and New Orleans in July 1984 for their involvement in the theft of over \$6.5 million from a Memphis armored truck facility in November 1983. Approximately \$3.8 million cash was recovered at the time of the arrests.

An undercover operation targeting large-scale insurance fraud and automobile thefts in the New York City area resulted in the December 1984 arrests of 25 individuals. Ninety-five vehicle owners were issued summonses to appear in court for falsely reporting their automobiles as stolen and then turning them over to one of the 25 arrested middlemen.

Another undercover operation successfully penetrated closely aligned groups of criminals involved in the thefts of truck-tractors, construction equipment, trailers, cargo, and pickup trucks in the Midwest. This operation resulted in the convictions of six individuals and the recovery of approximately \$1 million in stolen property. Another 20 persons are awaiting prosecution.

Investigative efforts within the General Property Crimes Program resulted in the convictions of 1,382 individuals in Federal court and 299 persons in state and local court during 1984. Among those convicted were 97 Top Thief Targets and 51 organized crime figures (either traditional or non-traditional). More than \$121.8 million in stolen and illegally possessed property was recovered and another \$18.7 million in potential economic loss was prevented. Twenty-two Group I undercover operations were active during the year. These operations were responsible for 258 of the General Property Crimes Program convictions.

AGENT TIME SPENT BY MAJOR CATEGORY OF GENERAL PROPERTY CRIMES INVESTIGATIONS: FY 1984

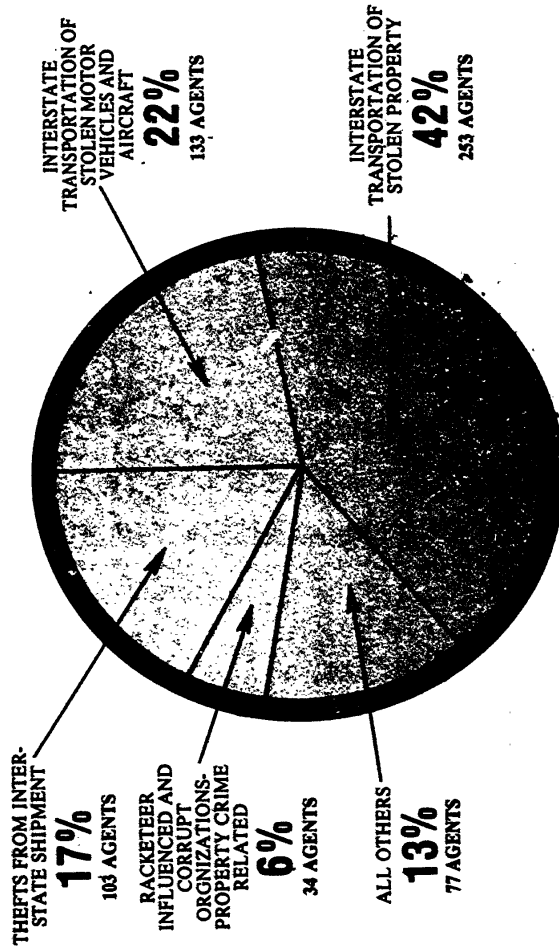
<u>Major Category</u>	<u>Agent Workyears (Includes Field Supervisors)</u>	<u>Percent (%) of Program</u>	<u>Percent (%) of Total Field Agent Time</u>
Thefts from Interstate Shipments	103	17.0%	1.2%
Interstate Transportation of Stolen Motor Vehicles and Aircraft	133	22.2%	1.6%
Interstate Transportation of Stolen Property	253	42.2%	3.1%
Racketeer Influenced and Corrupt Organizations - Subjects Involved in Property Crimes	34	5.6%	.4%
All Others	77	13.0%	.9%
Total	600	100.0%	7.2%



U.S. Department of Justice  
Federal Bureau of Investigation



# **Agent Time Spent By Major Category Of General Property Crimes Investigations Fiscal Year 1984** (Includes Field Supervisors)

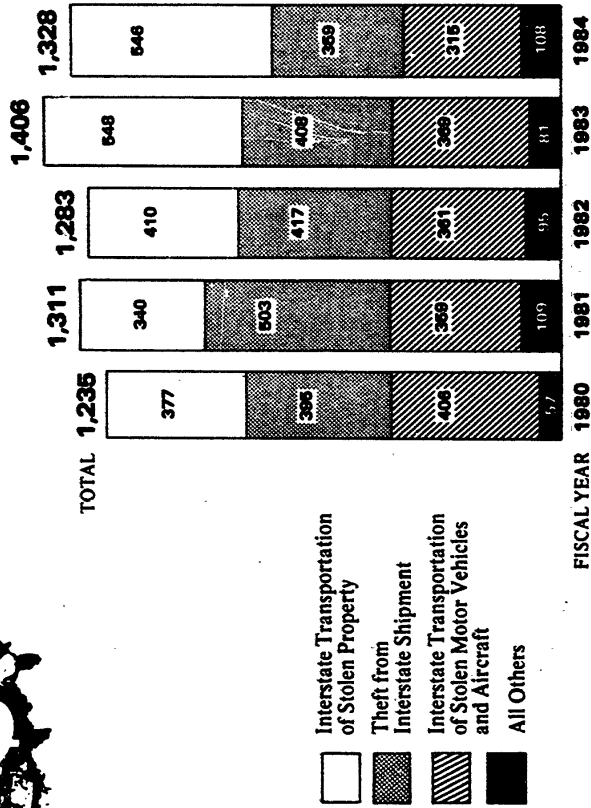


TOTAL FIELD AGENTS: 600



U.S. Department of Justice  
Federal Bureau of Investigation

# **General Property Crimes** Convictions in Federal Court



FBI INFORMANTS

Many sources of information are available to the FBI; but informants undoubtedly provide the single most important means of obtaining information in the most complex investigations. The nature of investigation has become more complicated, and criminal enterprises have reached the degree of sophistication where any appreciable degree of success would be impossible without the use of informants. Most of the long-term undercover operations and the utilization of electronic surveillance would not be possible without the participation of informants. Informants provide information of intelligence value leading to the solution of crimes, the recovery of stolen property and contraband, the location of wanted persons, and the detection of crimes in the planning stages.

Informants furnish information regarding criminal acts which are in violation of state laws and of Federal law over which the FBI has no jurisdiction. This information is disseminated to the appropriate law enforcement agency and has greatly assisted law enforcement at all levels.

The FBI attempts to develop informants who have a willingness and ability to provide information on a regular basis and are of known reliability in matters within its investigative jurisdiction. The ability to control these individuals is also utilized as a factor in determining their suitability to act as FBI informants.

Informants are paid on a cash-on-delivery basis for services rendered and expenses incurred. The amount paid to an informant is determined by the FBI based on the value of the information received.

Informants are not used by the FBI to circumvent legal or ethical restrictions. They are given specific instructions not to participate in acts of violence, use unlawful techniques to obtain information, or initiate a plan to commit criminal acts. Informants are sometimes allowed to participate in criminal activities with persons under investigation if it is determined necessary to obtain information needed for purposes of Federal prosecution. If this participation in criminal acts involves serious criminal activity, authorization is obtained from the Department of Justice prior to an informant's being used.

TRAINING

ALL NEW AGENT APPOINTEES MUST ATTEND A TRAINING COURSE AT THE FBI ACADEMY IN QUANTICO, VIRGINIA. THIS TRAINING, IN-SERVICE TRAINING FOR FBI PERSONNEL, AND FIELD FEDERAL TRAINING WILL REQUIRE \$35,516,000 AND 401 POSITIONS.

COST-FREE TRAINING FOR STATE AND LOCAL LAW ENFORCEMENT OFFICIALS IS PROVIDED AT THE FBI ACADEMY AND THROUGHOUT THE FIELD. THIS PROGRAM ACCOUNTS FOR \$16,134,000 AND 283 POSITIONS. THE FOLLOWING EXHIBITS DESCRIBE THESE TRAINING PROGRAMS:

FBI TRAINING

Training provided by the FBI to its employees can be generally categorized into two areas: (1) Basic - new agents' training at the FBI Academy, and (2) Specialized - in-service training for special agents and support personnel at the Academy and at the field office level.

The New Agents' Training Program provides a high level of instruction to insure that basic knowledge and skills are developed to enable new special agents to discharge their complex responsibilities when they are initially assigned to investigative operations in the field. The First Office Agent also receives professional guidance, assessment, and training during the probationary period (one year) in the field.

Specialized training is accomplished through formal in-service programs conducted at the FBI Academy for special agents and support personnel. Direct field support programs using FBI Academy instructors and/or police instructors assigned to the various field offices afford additional in-service training at the field level.

In-service training is designed to develop the full potential of all FBI personnel and to specifically enable them to:

- conduct complex investigations in the highest national priority areas: organized crime, white-collar crime, and foreign counterintelligence, as well as carry out all other general criminal investigations, and

- apply basic law enforcement skills and knowledge such as legal, behavioral science, firearms, defensive tactics, and raid and arrest techniques.

Employees participate in sophisticated management, assessment, and education programs to improve the abilities of support managers as well as the mid- and upper-level FBI executives to more effectively carry out their complicated responsibilities, including personnel and program management, affirmative action, media relations, and budgeting.

In-service training provides job enrichment and career development opportunities for personnel through educational programs at the FBI Academy and elsewhere.

Training efforts at the Academy and in the field support crisis management training for FBI personnel who will be expected to respond in the event of terrorism, aircraft hijackings, hostage incidents, or other life-threatening situations.



FBI training efforts include faculty improvement and research and development programs, which are essential to provide effective direct field support and training program improvement and assessment.

During fiscal year 1984, 5,530 FBI employees attended various training sessions conducted at the FBI Academy. A total of 680 new agents entered on duty during this period; 632 were graduated during the year. Specialized in-service training included courses in white-collar crime, organized crime, foreign counterintelligence, legal matters, crisis management, forensic science matters, behavioral science topics, undercover operations, management and executive development, technical and electronic training, and instructor and special seminars.

POLICE TRAINING OPERATIONS

The FBI provides courses of instruction for state and local criminal justice practitioners on a cost-free basis, both at the FBI Academy and throughout the United States at state, regional, and local training facilities in order to improve their administrative, investigative, management, and technical capabilities. This instruction is offered consistent with instructional expertise, availability of personnel, and budgetary limitations.

The principal course offered at the FBI Academy is the "FBI National Academy Program." This is an eleven-week, multi-discipline course for seasoned law enforcement managers nominated by their agency heads because of their potential for continuing advancement. Sessions are conducted four times a year for a total of 1,000 officers annually. The academic courses in this program are accredited by the University of Virginia. By the end of fiscal year 1984, 18,384 officers had completed this program, with one out of seven of the graduates who are active in law enforcement being the head of their agency.

In response to a void in executive training, in 1976 the FBI initiated the National Executive Institute. This 15-day program, specifically designed for the police chief executives of our Nation's largest law enforcement agencies, is conducted at the FBI Academy on an annual basis. More than 250 chief executives have been graduated from this program. In 1981 the Law Enforcement Executive Seminar, which is designed for police chiefs from mid-sized agencies, was implemented. By the end of 1984, approximately 280 police executives had been graduated from this course.

Specialized schools and courses dealing with a broad range of criminal justice related topics, such as Police Personnel Communications, Hostage Negotiation, Computer Related Crimes, Death Investigations, Interpersonal Violence, Criminal Psychology, Law Enforcement Laboratory Matters, and similar subjects, are offered at the Academy. They range in length from three days to four weeks and during fiscal year 1984, specialized schools and symposia were offered for 5,155 criminal justice personnel.

In addition to course offerings, FBI Academy faculty conducted research and provided consultation to local law enforcement on a myriad of topics and investigative techniques, including psycholinguistics, forensic hypnosis, psychological profiling of unknown subjects of multiple homicide and sex crime cases, hostage negotiations, and crisis management.

In 1984 the National Center for the Analysis of Violent Crime (NCAVC) was established at the FBI Academy. It is a law enforcement oriented behavioral science and data processing center to consolidate research, training, and operational support functions for the purpose of providing expertise to law enforcement agencies confronted with unusual, vicious, or repetitive violent crimes. The NCAVC consists of the following four programs: Research and Development, Training, Profiling and Consultation, and the Violent Criminal Apprehension Program (VI-CAP). By June of 1985, VI-CAP will be operational to analyze unsolved homicides from throughout the United States.

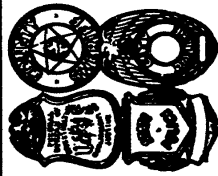
During 1984, FBI instructors provided 64,367 hours of instruction in 5,705 law enforcement schools attended by 182,226 criminal justice practitioners in the field.

Instructors from FBI Headquarters supported this field training effort in a variety of subjects such as Forensic Science, Applied Criminology, Identification Matters, Management, Uniform Crime Reporting, Arson, Death Investigation, and Instructor Development. The Training, Laboratory, Identification, Criminal Investigative, and Technical Services Divisions offered a total of 514 specialized schools to local, county, and state criminal justice personnel reaching more than 30,000 students.

As an adjunct to police training matters, the FBI has traditionally offered training in ongoing courses to a few select foreign police officers. Since 1938, the FBI has trained, through the National Academy Program, 712 officers from friendly foreign nations and there are 174 graduates from U. S. territories and possessions. During 1982, the FBI began a pilot program in Puerto Rico to train foreign police officers in basic criminal investigative matters. The training program is now an established FBI school called the Caribbean Police School (CPS) and was offered twice each year during 1982, 1983, and 1984, each session lasting four weeks. During the six sessions, 137 mid-management officers were trained from the following: 26 from Puerto Rico, 10 from the U. S. Virgin Islands, 21 from the U. S. Navy and U. S. Army, and 80 from 16 different foreign countries.

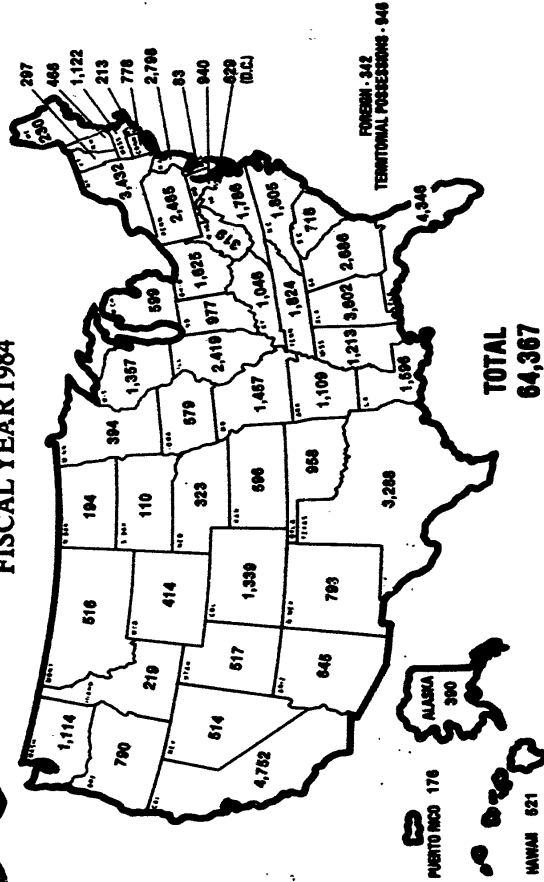


U.S. Department of Justice  
Federal Bureau of Investigation



# **Field Police Training** Hours of Instruction Received by Criminal Justice Personnel from FBI Special Agent Instructors (Geographical Distribution)

FISCAL YEAR 1984



LABORATORY SERVICES

A TOTAL OF \$16,417,000 AND 319 POSITIONS WILL BE NEEDED TO PROVIDE SCIENTIFIC AND TECHNICAL SUPPORT TO ONGOING FBI AND DEA INVESTIGATIONS AND LABORATORY EXAMINATIONS AND EXPERT TESTIMONY INVOLVING THESE AND OTHER FEDERAL CASES. THIS PROGRAM ALSO PROVIDES THE FBI WITH FORENSIC SCIENCE RESEARCH AND PROVIDES FORENSIC SCIENCE TRAINING FOR FBI AND OTHER FEDERAL LAW ENFORCEMENT AND CRIME LABORATORY PERSONNEL.

EXAMINATIONS OF EVIDENCE WITH SUPPORTING EXPERT TESTIMONY IS PERFORMED FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES WHICH DO NOT HAVE ACCESS TO JURISDICTIONAL CRIME LABORATORIES AND IN INSTANCES WHEREIN THE LOCAL LABORATORY DOES NOT HAVE THE EXPERTISE AND/OR INSTRUMENTATION TO PERFORM THE INDICATED EXAMINATION(S). UNDER THIS PROGRAM FORENSIC SCIENCE TRAINING IS ALSO PROVIDED TO THE NON-FEDERAL LAW ENFORCEMENT COMMUNITY. THIS WILL REQUIRE \$7,916,000 AND 122 POSITIONS IN 1986. THESE TWO PROGRAMS ARE EXPANDED UPON IN THE FOLLOWING EXHIBITS.

LABORATORY SERVICES

The FBI Laboratory is one of the largest and most comprehensive crime laboratories in the world. Since its inception in 1932, it has provided leadership and service in the scientific solution and prosecution of crimes in the United States.

FBI Laboratory services are funded and administered under two programs called Forensic Services - Federal and Forensic Services - Non-Federal. Although a distinction is made in administering funds and capturing statistics, all Laboratory examiners and technicians work in both programs using the same laboratory facilities and instrumentation.

Under the Forensic Services - Federal program, FBI Laboratory examiners participate in ongoing field investigations by conducting crime-scene searches; performing special surveillance photography; executing search warrants; and providing other on-scene scientific and/or technical services as necessary. Forensic examinations of evidence are performed in the Laboratory in support of FBI, DEA, and other Federal investigations. Expert court testimony and demonstrative evidence are provided as necessary to enhance prosecutive efforts. Funding in this program also supports an active and successful forensic science research program and forensic science training for Federal investigative and crime laboratory personnel at the Forensic Science Research and Training Center. This 7.5 million dollar facility was painstakingly designed and equipped to meet the rigorous demands of these activities.

Under the Forensic Services - Non-Federal program the extensive resources of the FBI Laboratory are made available to state and local law enforcement agencies throughout the United States. The present policy is to concentrate on providing sufficient training to state and local crime laboratory examiners of physical evidence to decrease their dependence on the FBI Laboratory. Direct services will continue to be provided when law enforcement agencies do not have access to jurisdictional laboratories and where the jurisdictional laboratory does not have the necessary instrumentation and/or expertise to perform the indicated examination.

The success of efforts to decrease reliance of state and local law enforcement agencies on the FBI Laboratory, through providing highly specialized training in forensic disciplines to their crime laboratory examiners, is dependent upon adequate funding for this program. Much of this training is not available anywhere else in the United States and without it jurisdictional laboratories will find it difficult to improve and expand their capabilities.

FBI LABORATORY ACCOMPLISHMENTS

During 1984 the FBI Laboratory received 18,042 requests for examinations containing 149,497 specimens of evidence. More than 1,045,000 examinations were performed on these specimens. Of the examinations performed, approximately 657,000 were in support of FBI and other Federal investigations. The remaining 388,000 were performed at the request of state, county and municipal law enforcement agencies. During the past year, Laboratory examiners responded to 1,063 commitments for testimony in courts of various jurisdictions throughout the United States. These commitments required the expenditure of 2,219 workdays.

Other notable accomplishments include the preparation of 18,732 investigative and prosecutive aids and the processing of 1,323,789 photographic prints.

CURRENT FBI LABORATORY RESEARCH AND TRAINING EFFORTS

The Forensic Science Research and Training Center (FSRTC) located at the FBI Academy was formally opened and dedicated on June 16, 1981. This unique facility houses both research and training laboratories and classrooms. The FSRTC is meeting the needs of the forensic science community by providing the necessary environment for practical "hands-on" training and applied research.

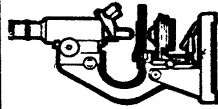
The training programs offered at the FSRTC are designed to maximize the use of physical evidence in the solution and prosecution of crimes; to enhance the professionalism of state and local crime laboratory personnel and decrease their dependence on the FBI Laboratory; and to meet the needs of Federal crime laboratory personnel. During 1984 this training was provided to 1,188 National Academy Students; 645 new FBI Agents; 1,101 students in specialized forensic science courses primarily for state and local crime laboratory and law enforcement personnel; and 451 FBI in-service personnel.

To stay abreast of advancing technology and to better meet the needs of the law enforcement community the FBI Laboratory engages in a research program which encompasses the entire range of forensic disciplines. Specific targets are selected through close liaison with FBI investigators as well as other Federal, state and local law enforcement personnel. Results of research efforts are shared through publication of the "Crime Laboratory Digest" which is circulated throughout the law enforcement community and through articles published in various scientific journals. The most recent noteworthy advances provide increased sensitivity in the detection of markers in bloodstains; methods for typing weak and/or old bloodstain samples which was previously not possible; and the development of serology procedures which can be employed in state and local crime laboratories. Some of these examinations were previously precluded in jurisdictional laboratories due to the specialized equipment and other requirements of the previous methods.





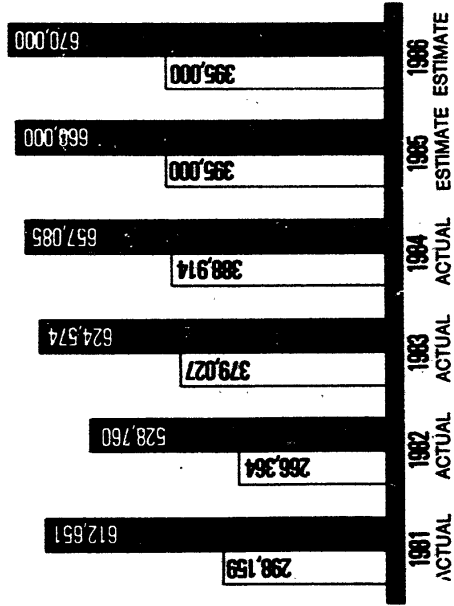
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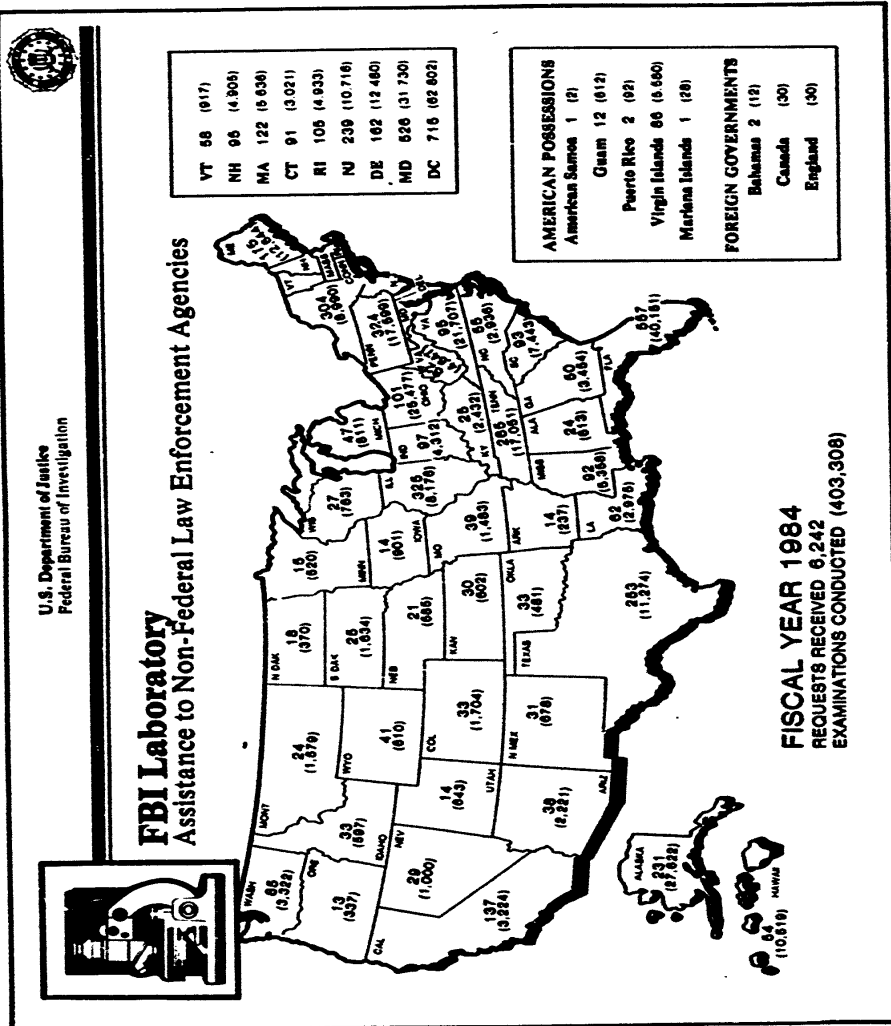


# FBI Laboratory Examinations for Federal, State and Local Agencies

*Fiscal Years*

STATE AND LOCAL  
FEDERAL





FINGERPRINT IDENTIFICATION

THE FBI STILL MAINTAINS THE LARGEST FINGERPRINT STORAGE AND RETRIEVAL SYSTEM IN THE WORLD. LATENT FINGERPRINT EXAMINATIONS AND EXPERT TESTIMONY ARE ALSO AVAILABLE. UNDER THIS REQUEST, THE FINGERPRINT IDENTIFICATION PROGRAM WILL REQUIRE 2,573 POSITIONS AND \$72,746,000. THE FOLLOWING EXHIBITS RELATE TO FBI FINGERPRINT OPERATIONS:

FINGERPRINT WORK OPERATIONS

The FBI's Identification Division serves as the Nation's centralized repository and clearinghouse for fingerprint records. In that capacity, the Division furnishes identification and criminal history record services to over 20,000 agencies which are authorized by Federal statutes, regulations and executive orders to utilize the Division's services. The Division's fingerprint files act as a "locator" or "index" of criminal arrest activity throughout the United States, thus avoiding time-consuming and costly checks of all 50 states to ascertain a person's complete criminal history.

When the Division was created by an Act of Congress in 1924, it began operations with about 810,000 fingerprint cards. As of February 1, 1985, the Division possessed over 167 million fingerprint cards, of which over 84 million contain criminal history data for over 22 million persons. The remaining 83 million fingerprint cards relate to over 35 million persons who have been fingerprinted in connection with employment in Federal agencies, military service, alien registration, and personal identification.

The reliance placed upon the Division's services is evidenced by its enormous workload. During each workday of fiscal year 1984, the Division received an average of 41,866 pieces of mail, of which 25,751 were fingerprint cards and 16,115 were other types of mail, including name-check requests, disposition reports, expunction/purge requests, and requests by individuals to review and/or revise their records. These items of mail were submitted by: Federal, state and local criminal justice agencies for law enforcement purposes; Federal, state and local government agencies and officials for employment and licensing purposes; authorized foreign governments for international police cooperation purposes; and banking, securities and commodity futures institutions for employee security purposes.

The Division provides the following services: arrest and applicant fingerprint card identification and recordkeeping; posting of wanted and probation/parole notices; examination of physical evidence for latent fingerprints and the provision of court testimony as to the results, if needed; training in fingerprint science; maintaining fingerprint records of persons currently reported missing; and the identification of amnesia victims and unknown deceased persons.

Exhibit No. 52

Major accomplishments during fiscal year 1984 included: the processing of over 6 million fingerprint cards and over 4 million pieces of other correspondence; the identification of 12,427 fugitives by their fingerprints; the handling of 19,209 latent fingerprint cases, some of which involved the use of advanced laser technology; the furnishing of assistance in the identification of deceased victims of five air disasters, the terrorist bombing of the U. S. Marine Corps compound at Beirut, Lebanon, and the invasion of the Caribbean island of Grenada; and assistance in the identification of 48 Americans and Cubans released from Cuban prisons.

In order to alleviate the excessively backlogged work condition of the Division, the FBI suspended Public Law 92-544 services (i.e., those to banking institutions, and state/local employment and licensing authorities) during fiscal year 1982. The one-year suspension action fulfilled its purpose. By the end of 1982, both the work backlog and average processing time of the Division had been more than halved. Accordingly, full services were restored in fiscal year 1983. Also, during fiscal year 1983, a user-fee system was implemented in which a fee of \$11 or \$12 is charged for each applicant fingerprint card submitted by the banking, securities and commodity futures trading industries, and by state/local employment and licensing authorities. The fees are being used to pay for the personnel and related costs of providing the services. During fiscal year 1984, 697,814 user-fee fingerprint cards were processed and \$7,728,933 in fees were collected.

FINGERPRINT WORK ACCOMPLISHMENTS

The following table lists the Identification Division's major work production accomplishments during fiscal year 1984:

<u>Type of Accomplishment</u>	<u>Number of Accomplishments</u>
Fingerprint cards processed	6,466,833
Correspondence, forms, and name checks processed	1,505,225
Expedite and special requests processed	148,307
Disposition reports processed	2,516,097
Wanted and probation/parole notices maintained on file	145,814
Fugitives identified by fingerprints	12,427
Expungement and purge requests processed	512,611
Nonserious offense entries deleted from arrest records	174,579
Latent fingerprint cases handled	19,209
Suspects identified as the result of latent fingerprint examinations	3,316
Federal, state and local court appearances made by FBI Latent Fingerprint Experts	346
Sentences resulting from the court appearances:	
Prison terms (years)	3,317
Life sentences	20
Death sentences	10

Exhibit No. 53

AUTOMATION OF FINGERPRINT WORK OPERATIONS

The FBI has pursued a program to automate the work operations of the Identification Division for nearly 18 years. Starting in 1967, the FBI sponsored research to develop: (a) computerized equipment which would automatically scan and read inked fingerprints appearing on fingerprint cards; and (b) computer programs which would compare and match the computerized fingerprint data. By 1969 experimental models of fingerprint reader equipment and matching programs had been successfully demonstrated. A study performed in 1971 concluded that it would be technically, economically, and operationally feasible to incorporate automated fingerprint reader and matching equipment into the Division, and to automate the other work functions of the Division, such as name searching and response generation. Consequently, the FBI devised an overall plan to develop a fully automated system to be known as the "Automated Identification Division System (AIDS)." Because of the magnitude of the task, it was necessary to divide the project into three phases (known as "AIDS-I," "AIDS-II," and "AIDS-III") and to implement the phases over a period of several years.

The following progress has been made to date toward the goal of fully automating the Identification Division's work operations:

<u>Year</u>	<u>Automation Accomplishments</u>
1972	A prototype automatic fingerprint reader system was delivered to the FBI.
1973	AIDS-I began operations on August 30, 1973. This phase provided for the building of a computerized file of identification and arrest data on first offenders, the printing of 3 x 5-inch cards for the Division's manual criminal name indices, and the printing of "No Record" or arrest record responses to fingerprint cards and name-check requests. To date, over 8 million "first offender" records have been entered into the system and kept updated with subsequent arrest and disposition data.
1976-7	Five production-model fingerprint readers were delivered to the FBI and placed into operation converting the Division's criminal fingerprint search file into computerized form. To date, over 17 million fingerprint cards have been converted.
1979	AIDS-II superseded AIDS-I on October 18, 1979. This phase, which is the one presently operational, provides for enhanced AIDS-I capabilities (e.g., allows for "on-line" versus previous "batch" processing) and computerized name searching in place of the generation of name index cards for the manual name indices. Computerized name searching of the automated arrest record file was initiated on October 29, 1979, and now represents about 65 percent of the name searching performed by the Division.
1979	Began pilot automated fingerprint searching operations in one of the 23 units of the criminal fingerprint searching file.

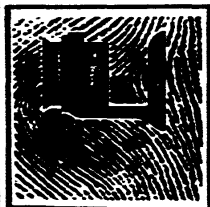
Exhibit No. 34

Year	Automation Accomplishments
1981	A semiautomatic fingerprint reader system with 20 input stations was delivered to the FBI. This equipment is being used to computerize fingerprints which cannot be read by the fully automatic fingerprint readers, i.e., low-quality inked fingerprints and latent fingerprints.
1982	An automated user-fee system was implemented to charge for the processing of noncriminal/non-Federal applicant fingerprint cards.
1983	Automated fingerprint searching operations were expanded to all units of the Division's criminal fingerprint file. Presently about 95 percent of the Division's fingerprint searching is performed automatically.
1984	Over 8 million computerized "rap sheets" contained in the Division's files became available on-line through the NCIC telecommunications network as part of the NCIC's III program. The request and the rap-sheet responses are now transmitted on-line in a matter of seconds to the many thousands of NCIC terminals throughout the country.

The next step in the automation project is to proceed with the implementation of AIDS-III. The contract for AIDS-III was awarded on January 2, 1985, to Science Applications International of McLean, Virginia. Plans call for the system to be operational in 1988. When implemented, this phase will combine all of the previously-developed capabilities (e.g., automated name and fingerprint searching) and data bases (e.g., the computerized arrest record file and the computerized criminal fingerprint searching file) with new capabilities (e.g., a conveyor beltway system which will automatically transport fingerprint cards from one work station to another) to make up a fully integrated, highly efficient system.

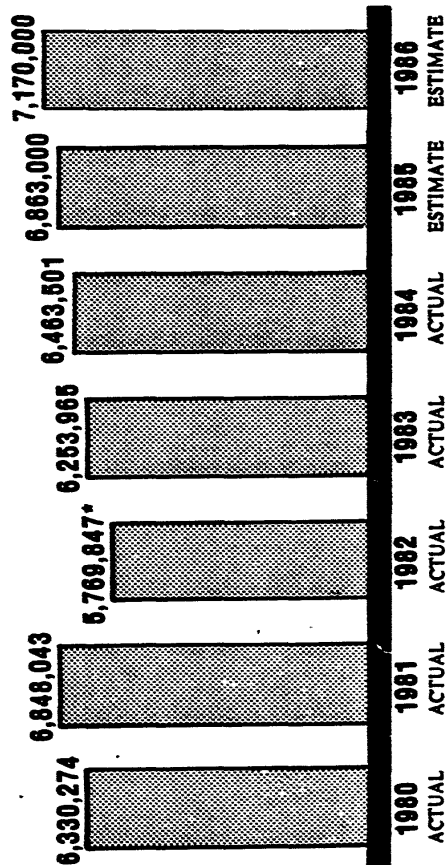


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# Fingerprint Receipts

*Fiscal Years*



\*REFLECTS REDUCTION OF APPROXIMATELY 1.4 MILLION FINGERPRINT RECEIPTS DUE TO SUSPENSION OF PUBLIC LAW 92-544 FOR FISCAL YEAR 1982



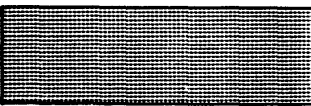


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# Number Of Fingerprint Cards On File



84,293,831



**TOTAL: 167,630,276**

As of February 1, 1985

56,205,609

11,024,055

10,301,252

5,805,529

CRIMINAL

FEDERAL  
GOVERNMENT  
(INCLUDING MILITARY)

ALIEN

MISCELLANEOUS  
APPLICANT

PERSONAL  
IDENTIFICATION

## ESTIMATED NUMBER OF PERSONS REPRESENTED:

For the 84,293,831 fingerprint cards in the criminal file .....

22,604,447

For the 83,336,445 fingerprint cards in the civil file .....

35,126,344

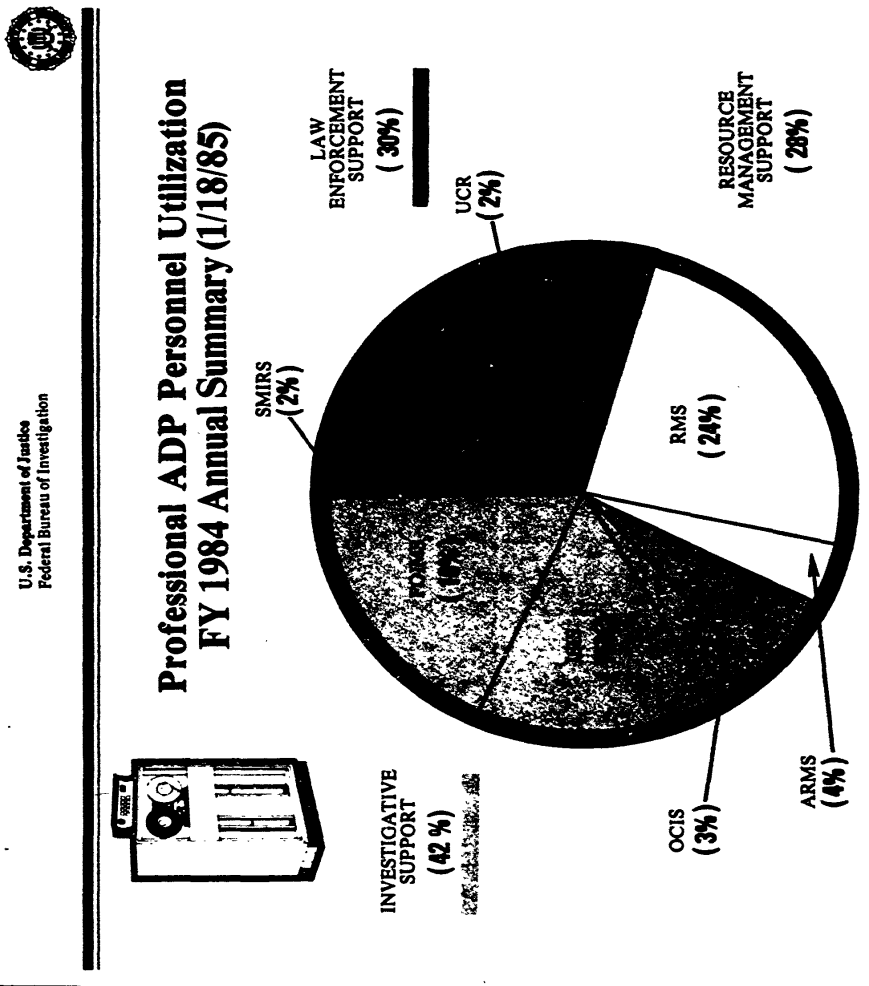
**TOTAL ESTIMATED PERSONS REPRESENTED** .....

57,730,791\*

\* WITHOUT ACCOUNTING FOR PERSONS DUPLICATED IN BOTH FILES.

AUTOMATIC DATA PROCESSING AND TELECOMMUNICATIONS PROGRAM (ADPT)

THE ADPT PROGRAM PROVIDES THE FBI WITH INFORMATION COLLECTION, STORAGE, RETRIEVAL, AND DISSEMINATION CAPABILITIES THROUGH THE USE OF AUTOMATIC DATA PROCESSING, TELECOMMUNICATIONS, AND WORD-PROCESSING RESOURCES. THE FBI HAS FOLLOWED A POLICY OF USING ADPT RESOURCES TO DIRECTLY SUPPORT INVESTIGATIVE AS WELL AS ADMINISTRATIVE REQUIREMENTS WHEREVER IT WOULD ACHIEVE GREATER EFFICIENCY. IN ADDITION TO MEETING ITS OWN VITAL MISSION-ORIENTED INFORMATION PROCESSING REQUIREMENTS, THE FBI ALSO DEDICATES A SIGNIFICANT AMOUNT OF ITS DATA PROCESSING RESOURCES TO SUPPORT CERTAIN RELATED NEEDS IN THE ENTIRE CRIMINAL JUSTICE COMMUNITY. THE INVESTIGATIVE, ADMINISTRATIVE, AND LAW ENFORCEMENT SUPPORT SYSTEMS ARE MANAGED CENTRALLY TO MAKE THE MOST EFFICIENT USE OF THE FBI'S COMPUTER RESOURCES.





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### Computer Center Resources Distribution 1984 Annual Summary (1/18/85)

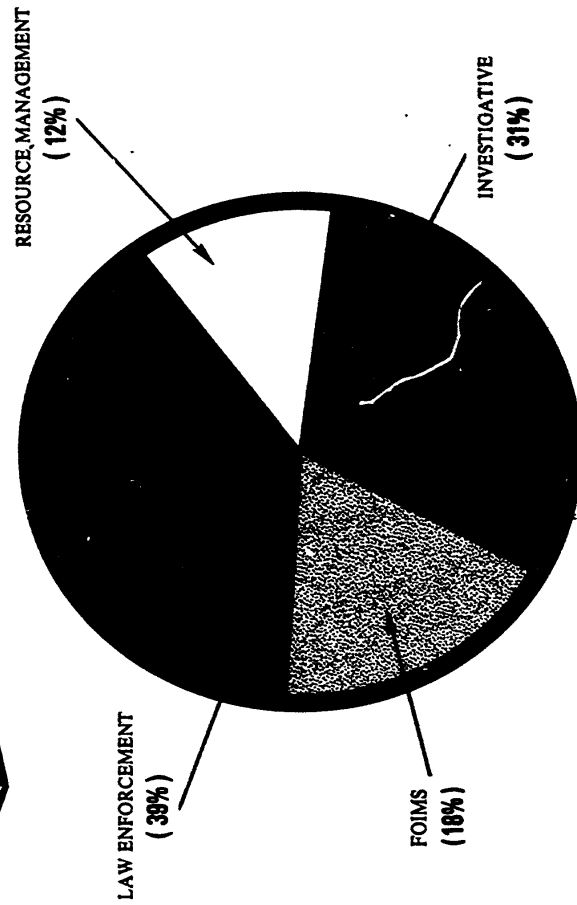


Exhibit No. 59

CRIMINAL JUSTICE DATA AND STATISTICS SERVICES

THE FBI COMPILES AND PUBLISHES THE UNIFORM CRIME REPORT, WHICH PROVIDES THE INCIDENCE OF REPORTED CRIMES THROUGHOUT THE UNITED STATES AS SUBMITTED BY OVER 15,000 INDIVIDUAL AGENCIES. THE FBI ALSO MAINTAINS THE NATIONAL CRIME INFORMATION CENTER WHICH PROVIDES INFORMATION ON STOLEN PROPERTY, WANTED PERSONS, MISSING PERSONS, AND CRIMINAL HISTORIES TO CRIMINAL JUSTICE AGENCIES. TO CONTINUE THESE FUNCTIONS, \$7,896,000 AND 204 POSITIONS WILL BE REQUIRED. THE FOLLOWING EXHIBITS WILL FURTHER DESCRIBE THIS PROGRAM AS WELL AS DEPICT THE PERCENTAGE CHANGE OF CRIME IN THE UNITED STATES BETWEEN CALENDAR YEARS 1979 AND 1983:

NATIONAL CRIME INFORMATION CENTER (NCIC)

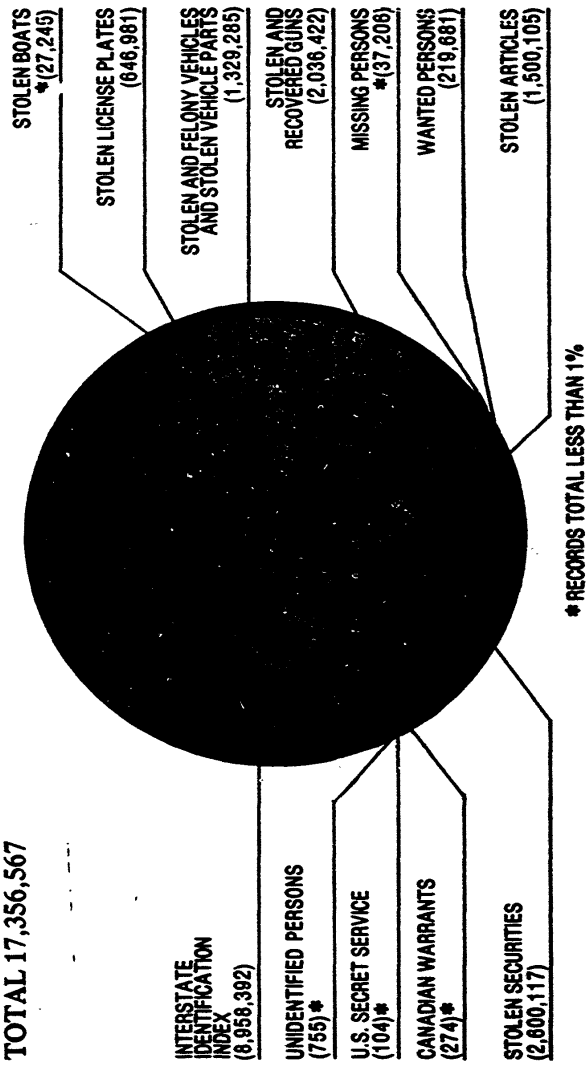
The NCIC is a nationwide criminal justice information teleprocessing network which provides documented criminal justice information to the entire criminal justice community. NCIC contains records on stolen property, i.e., vehicles, license plates, guns, securities, boats, and serialized articles; wanted persons for whom arrest warrants are outstanding; criminal histories on persons arrested for serious offenses, unidentified persons; and missing persons meeting specific entry criteria. An NCIC Advisory Policy Board, made up of Federal, state, and local criminal justice officials, furnishes advice to the FBI Director on policy matters concerning NCIC operations and thereby allows the users a voice in the overall management of the system. The users of NCIC, which include the criminal justice agencies in the 50 states, all Federal law enforcement agencies, the Royal Canadian Mounted Police, the Police of the Commonwealth of Puerto Rico, and the U. S. Virgin Islands, obtain these services on a cost-free basis.



## BREAKDOWN OF RECORDS IN NCIC COMPUTER

AS OF DECEMBER 31, 1984

TOTAL 17,356,567



UNIFORM CRIME REPORTING

The Uniform Crime Reporting program was conceived and implemented by our Nation's law enforcement agencies in 1930. At its inception, two basic needs were recognized. First, it was believed the American people deserved an accounting of the extent and nature of criminal activity. Second, law enforcement leaders needed an administrative tool to better manage their departments.

On a monthly basis, this program collects statistical data concerning the incidence of criminal acts from over 15,000 individual law enforcement agencies nationwide. Data collection is grouped according to certain basic types of offenses, namely, murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. These categories comprise the Crime Index. Additionally, statistical information on arrests, property loss, and other factors relevant to criminal activity is aggregated. Analyzed data are disseminated in various formats such as:

1. Semiannual releases on crime trends, law enforcement officers killed, and bombing incidents.
2. Annual publications of "Crime in the United States," "Law Enforcement Officers Killed and Assaulted," "Bomb Summary," and "Arson."

When first implemented, the Uniform Crime Reporting program was used on a relatively limited basis. Now, however, this program is relied upon by many people and organizations from widely varying professions. Scholars depend upon this data to better understand the seriousness of crime and its effect on our society. Legislators rely upon it for direction in developing necessary legislation to more effectively combat crime. Administrators of the criminal justice community use the information to plan their activities so as to have the maximum impact on the criminal element.

Substantial cooperative efforts at all levels of the law enforcement community are necessary in gathering the data upon which the Uniform Crime Reporting program depends. The benefits derived from the program are indeed significant and have resulted in an increased understanding of the crime problem which confronts the citizenry of this country.





U.S. Department of Justice  
Federal Bureau of Investigation



## Crime In The United States

Percent Change  
Calendar Years 1979 Versus 1983

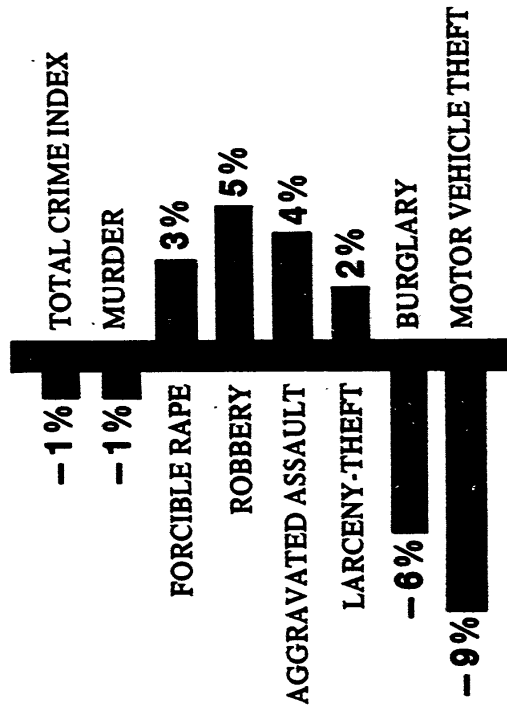


Exhibit No. 63

Mr. SMITH. How do you interface with local law enforcement?

Mr. WEBSTER. We interface very closely with local law enforcement on criminal investigative matters. In the area of international terrorism, we have received tremendous cooperation from local law enforcement who have identified peculiar situations developing within their jurisdiction. I think back to Chicago and the identification in Evanston of the FALN. Although that is technically a domestic case, it is illustrative of the type of cooperation we receive.

#### ILLEGAL DRUGS

Mr. SMITH. What about with illegal drugs; how is that working, the new arrangements that you have got with DEA and others?

Mr. WEBSTER. We have, as you know, a number of initiatives that go beyond the FBI, and indeed the DEA, working with drug task force units established by the President, with additional funding authorized by Congress in 1988. Is your question directed to the overall drug effort, or the DEA-FBI relationship?

Mr. SMITH. Really both.

Mr. WEBSTER. Taking first the drug task forces from which we have seen very substantial successes emerging, we have never understood or promised that there would be instant successes in this area. These were long-term investigative efforts designed to break up the distribution apparatus inside the United States, coupled with the interdiction effort called NNBIS, to deal with stopping drugs at the border. It is really a five-part program, beginning with the control of source countries, assisting source countries to reduce their supply, additional military assistance to help us stop them at the border, the interdiction system, and the drug enforcement task force efforts that I have described.

Mr. SMITH. Are you satisfied with the overall and with the part you are playing in it?

Mr. WEBSTER. I don't think we can be satisfied that we have done enough at this time. I am satisfied with the directions that we are taking. I think we have identified the proper priorities, and I think we have brought enormous resources to bear in a very short period of time. Just in the FBI alone we have over 2,000 important, high-impact investigations in drugs going on at the present time, after less than two years of effort and resources in this area. Over eight hundred investigations are being operated jointly with DEA.

I think that more needs to be done in the overall drug program, particularly in the area of demand, which is not essentially a law enforcement function. It is a private sector function, one of education, one of bringing to the focus of the young people of the country the ravages of drugs and the damage to health and safety that flow from their use.

I think that is coming rapidly now. There has been a lot of leadership in this area, but it is at least 50 percent of the equation. I am concerned that the military should not pull back from its contribution, which has been essential to the interdiction and intelligence-gathering efforts in the Caribbean. There is an effort to curtail military expenses, and I hope this isn't one of the military expenses that the Defense Department reduces because the military's contribution is critical.

## COOPERATION OF LOCAL AND FOREIGN GOVERNMENTS

Mr. SMITH. What about your relationship with local governments; are they doing enough? Are you getting cooperation there?

Mr. WEBSTER. They are doing a tremendous job. It's a back-breaking day-in, day-out street type of peacekeeping responsibility, and sometimes it must seem to them that the drugs are just not stopping, that they are continuing to flow into their communities. That is why I think it is so important for the Federal agencies, with continental communications systems, intelligence bases, and so forth, to focus on the distribution system.

If we can break up the means by which drugs find their way into the United States and are then distributed into the cities, we will have helped the local people deal with the street traffickers, and that will give them some relief, but it is going to take a while.

The best example I can supply of that is the Badalamenti case. There are so many names—Catalano, Ganci and Castronova but Badalamenti was the top player in the Sicilian distribution system in the United States. This investigation became known in the press as the "Pizza Connection" case. The Badalamenti Sicilian Mafia family, which was not otherwise connected or a part of our traditional LCN or Mafia groups in the United States, was distributing heroin through contact points in the Middle West. They were utilizing Sicilian Mafia family members who were operating pizza parlors to make contacts with Bonnano and other traditional organized crime families in this country. And that is where the various individuals, Ganci, Catalano, Castronova, and so forth, were identified. Badalamenti's organization accounted for a very significant part of the heroin smuggled into the United States.

It is the first time we have been able to reach all the way to the top. Even in the "French Connection" case we never got to the very top of the apparatus. We had the cooperation of the Italian Government and the Government of Brazil. Badalamenti was arrested in Madrid, and extradition proceedings are now in place.

That gives me another opportunity to say that I think the initiatives we have developed with the Government of Italy have been extraordinary. Usually you find that these discussions take place at the investigative level, and sometimes at this level such as in Mexico, the coordination efforts are tentative. Here we are dealing with the Minister of the Interior, with the express endorsement of the Prime Minister of Italy, the President of the United States and the Attorney General of the United States.

I am working closely with all the top heads of all the Italian agencies, the Carabinieri, the Guardia Di Finanza, and so forth. We have our most sophisticated organized crime data base in Italy, functioning there to cooperate with the Italian Government in helping identify criminal associations and this has been extremely successful. The intelligence given to us by drug defector Buccetta, who was under considerable pressure of his own, has given us an additional base to deal with heroin trafficking. This is illustrative of the kind of broad-gauge work that is going on today, and it is uncovering a much larger problem than previously realized.

Shifting to marijuana, for example, I believe that more marijuana was seized last year than the statisticians have projected would

be grown. Cocaine, in the view of the Administrator of DEA, and certainly in my view, is the most challenging problem at the present time. There is more money and more profit in this area than in any of the other areas we have discussed. It is coming within the reach of children now. It was always thought to be too expensive, but increased supplies from Colombia, Bolivia, other South American countries, and Mexico, have reduced the price. That is going to be a major problem for us, but we have had some enormous successes in San Diego and in Florida recently, in identifying and dealing with the apparatus.

#### NATIONAL CRIME INFORMATION CENTER

Mr. SMITH. Is our Crime Information Center facility fully available to state and local officials that work in this area? Are they using it?

Mr. WEBSTER. The state and local law enforcement people, of course, have access to the National Crime Information Center, the NCIC system. There is no OCIS terminal available, that is, the Organized Crime Information System is not available to local law enforcement. In fact, it is not available to all of the FBI offices, although we are rapidly reaching that stage.

Mr. SMITH. It is not directly available, but do you cooperate with them?

Mr. WEBSTER. Absolutely, and that information is shared with state and local law enforcement. The El Paso Intelligence Center EPIC in El Paso, Texas, is rapidly becoming the central point of intelligence-gathering and sharing in drug-related matters, and local law enforcement has entry to that system and receives information that is developed there. We are hoping that the entire interdiction apparatus may ultimately be coordinated through the EPIC center, and then we will have one massive intelligence base in which we all can work.

Mr. SMITH. Mr. O'Brien.

Mr. O'BRIEN. Thank you, Mr. Chairman.

Good to have you back, Mr. Director.

Mr. WEBSTER. Thank you, Congressman O'Brien.

Mr. O'BRIEN. With respect to the OCIS just for a moment, I take it you initiate information transfer as well as responding to requests from local agencies. Is that correct?

Mr. WEBSTER. That is correct. You are talking about NCIC, are you not?

Mr. O'BRIEN. Yes, that is right, I am sorry.

Mr. WEBSTER. Yes.

#### JENCO KIDNAPPING

Mr. O'BRIEN. If I understand correctly, the purpose of legal attaches and part of their assignment is to collect and exchange information with other foreign governments and services. In my area, from my hometown, there was kidnapped in early January Father Martin Jenco. I know him personally and I know his family. It brings it very close to home. There seem to be no clues available that we have been able to find out with regard, literally

and factually, that could tell us where he is and who may have him. Would it be possible to make a personal request and have your overseas legal attaches look into that? They might come up with something that could be of help to us in shaking him loose.

Mr. WEBSTER. Certainly, part of their function is to make sure that local law enforcement agencies are alert to the extent that we have any intelligence indicating that they might be in that part of the world. We are talking about a world-wide situation.

Your concern, if I understand the question, has to do with the missing persons in the Middle East?

Mr. O'BRIEN. That is correct, out of Beirut.

#### ASSISTANCE FROM INTERPOL

If I understand correctly, we are now a full member of INTERPOL?

Mr. WEBSTER. We are.

Mr. O'BRIEN. Do you think there might be some help available through them?

Mr. WEBSTER. INTERPOL is not the best place for this. We certainly want any help they can give us. To the extent that any of these activities are considered political, INTERPOL draws back from them. The FBI became a full partner two years ago. In the effort, Secret Service—of course, John Simpson is president of INTERPOL at the present time—and other American interests are coordinated through the Department of Justice.

Last year we were successful in getting INTERPOL to address some areas of international terrorism which were considered to be so patently off limits that they could not really be excused as political effort, where individuals were affected who were not in the zone of political contention. We have defined a range of these areas in which INTERPOL is now prepared to provide assistance, which is historic in terms of INTERPOL'S view of the world.

I am not sure that we can get much help in the Beirut, Lebanon, area because there will be the tendency of the Middle East members to say that this is a political thing, but we certainly want all the help we can get from them, and we will keep pushing in that area.

Mr. O'BRIEN. You would know better than I not to press the point, but the only political thing that could be tagged to Jenco is the fact that he is an American.

Mr. WEBSTER. I agree.

Mr. O'BRIEN. He is a religious man. He has an extraordinarily high prestige rating in that area among the disadvantaged. He has been eminently fair with Catholic Relief. He was managing it there, and the only excuse that I could think of they might have for picking him up is that he was an American in charge of something.

Mr. WEBSTER. I agree with everything you say. I am trying to be as realistic as I can, based on my knowledge of the way INTERPOL works. The members of INTERPOL who would be in the best position to supply the information are probably least inclined to do so. We have other routes that we are pursuing.

Mr. O'BRIEN. With respect to this—and I just had one more question. But with respect to Father Jenco, if you come across anything that might be of help, I would appreciate your letting me know.

Mr. WEBSTER. I would be glad to do that.

#### TERRORISM

Mr. O'BRIEN. The last thing I want to comment on was the article in today's Post with respect to the President's warning to terrorist sponsors. The part that caught my attention was a paragraph on the second page of the article. It read as follows:

"On Sunday, Danielle Perez, a secretary in the French Embassy in Beirut was released unharmed after being held for 10 days in west Beirut. Perez said she did not know who her captors were but a previously unknown group calling itself the Khaybar Brigades issued a statement last week saying it had abducted her, her father and another French diplomat. Perez said she and her father were kept in separate rooms.

"A statement last week by the Khaybar Brigades had promised to release Perez and four others they said they were holding. Three of them, including Perez, have been released so far."

From our point of view, we tend to group all those as one but do the French have a way of going about these things that is a little different from ours?

Mr. WEBSTER. There is an element of difference in the French approach to terrorism.

Mr. O'BRIEN. Am I correct in assuming that with respect to this problem, some of our best friends would like to divorce themselves from being American allies?

Mr. WEBSTER. Well, we have not yet marshalled a unified front against international terrorism. There are many who believe—and I think I probably am one of those—that what is needed here is to outlaw terrorist conduct. There was, at one time, an effort to do this when the Palestinians were beginning to use terrorism as a vehicle for international policy. It has to be confronted as something that is my problem as well as my neighbor's problem, when terrorism occurs to him. It confronts us all, and we need a very unified front.

Mr. O'BRIEN. Thank you, Mr. Webster. Thank you, Mr. Chairman.

Mr. SMITH. Mr. Early.

Mr. EARLY. Thank you, Mr. Chairman.

Mr. WEBSTER. Thank you, Congressman Early.

#### REDUCTION IN ADMINISTRATIVE SERVICES

Mr. EARLY. In accordance with the President's directive that administrative services be reduced government-wide by 10 percent in 1986, your executive direction and control and administrative service programs will be reduced by a total of \$4,971,000. How will this affect the organization and administration of the FBI, particularly in the light of your request for additional personnel, not to mention the administrative and financial management that must go into administering your administratively uncontrollable overtime account?

Mr. WEBSTER. Well, very frankly, I think that putting specific reductions in this particular area, which has been significantly free from fat for some time, imposes a heavy burden on us, and it is bound to diminish the FBI's effectiveness and efficiency in performing certain support functions for the field operations, including procurement, facility maintenance, personnel management and voucher and payroll processing. It would translate into a reduction of approximately 131 employees. We would much prefer to be able to absorb any cost reductions in a more discretionary way. We could look for other places to better absorb the specific reductions.

#### ADMINISTRATIVELY UNCONTROLLABLE OVERTIME

Mr. EARLY. I don't think it is an honest reduction, Mr. Director. You know you are going to be back in for that money.

On the administratively uncontrollable, again I think that account is misnamed, because it is not uncontrollable. It is the most controllable overtime I have ever seen. From the reports you just gave us, Mr. Director, every single one that is eligible got the maximum amount that he or she was eligible for. Why don't we just incorporate this under the salaries, Mr. Director?

Mr. WEBSTER. I know that this problem comes up on an annual basis, and I certainly expect that it will continue to come up on an annual basis, because there are others who do not receive administratively uncontrollable overtime, and I guess it has something to do with where the FBI salary structure fits into the overall Justice Department and Government-wide structuring of salaries.

I would like to point out--and I try to do it every year--that by using the system of AUO, the Government saves money, perhaps at the expense of the agents, but the Government does save money. Not everyone gets AUO, beyond a maximum rate.

Mr. EARLY. Everyone that is eligible---

Mr. WEBSTER. That is right.

Mr. EARLY [continuing]. Gets every dime of it. I mean, there isn't one member of the FBI, DEA, INS and U.S. Attorneys Office that is eligible for uncontrollable overtime that doesn't get the maximum amount that he or she is eligible for; isn't that true?

Mr. WEBSTER. That is right, because there is a limit on the amount you can get. Those whose aggregate salary exceeds GS-15, Step 10, don't get it all.

Mr. EARLY. Why don't we just incorporate it? I don't have any trouble with it, Mr. Director. I think the agents are underpaid, but I mean why have a \$75 million uncontrollable overtime account? Just incorporate it in each particular grade, the recruiting FBI agent, Grade 10, and so on.

When you put together for your supplemental request for fiscal year 1985 for 96 agents, was the cost of the 96 agents based on their salary, or their salary plus their overtime?

Mr. WEBSTER. AUO is included in the figures.

Mr. EARLY. Why not tell the people the truth? This is crazy. I don't think it is all your fault. Why don't we just pay them what we say we are going to pay them? Then recruiting might be a little easier.

Mr. WEBSTER. I know when I look at the figures I realize the puzzle and perhaps frustration that you must experience. If we paid \$47,390,076 in AUO last year, on the basis of straight overtime, it would have been \$78,637,026.

Mr. EARLY. I am a firm believer that the FBI should get overtime.

Mr. WEBSTER. I am too.

Mr. EARLY. I think we should adjust their salaries where we are going to make them work more than 40 hours, but if it is 24 consecutive hours——

Mr. WEBSTER. But you sometimes look at those figures, and what that allowance is is an hour and 49 minutes of overtime a day, and each agent averaged in excess of two hours, 30 minutes per day.

#### LEGAL ATTACHÉ PROGRAM

Mr. EARLY. I read that in the report and I think it is true, I really do, but I don't like to call it an uncontrollable when it is the most controllable thing I have ever seen.

Mr. Director, in your justifications, on page 58, you show a substantial increase in the number of investigative matters that the legal attachés are receiving. You have still got the same 36 agents and 36 support personnel. In light of the rise in world terrorism, in situations such as the murder of the DEA agent in Mexico, do you think the legal attache program has sufficient personnel and resources to continue to investigate matters that could conceivably have international ramifications?

Mr. WEBSTER. I think they have a very heavy load, and I have appreciated, Congressman Early, that you have supported this program for so many years, because there was a time when Congress was whittling away at it, and I should say at the encouragement of the administration several years ago. When I see one agent having to cover an entire continent, it's hard for me to say we have enough people in place to do that work.

#### ADMINISTRATIVELY UNCONTROLLABLE OVERTIME

Mr. O'BRIEN. Will the gentleman yield?

Mr. EARLY. Sure.

Mr. O'BRIEN. With respect to that comment, Mr. Early and Mr. Webster, it seems to me that just from the point of view of attitude makes a difference. If I am just an ordinary nine-to-five clerical worker with the FBI, I have a salary. If I am an agent—and I don't know an awful lot about it, but I must realize that the demands on me run 24 hours a day.

Mr. WEBSTER. Indeed they do.

Mr. O'BRIEN. The Director deems it essential. I think I would feel better knowing that if I had those hours beyond the ordinary, that I am getting a little extra slice of cake for it. Now, maybe I am wrong, Joe, but were I in that situation, I would like the notion that there is overtime for me, when I do what you want me to do at all hours of the day and night.

Mr. EARLY. But if your pay was \$45,000 and you were getting \$5,000 overtime or if your pay was \$40,000?

Mr. O'BRIEN. I still don't think that would make a bit of difference. I think my zeal would be different if I knew I were going to get extra pay for extra hours.



## INTERNATIONAL TERRORISM

Mr. EARLY. Mr. Director, I appreciate the answer on the legal attaches. One thing is bothering me. On the 1984 Act to Combat International Terrorism, it appears to me that we are going out to competitive business for informers. As you know, the 1984 Act to Combat International Terrorism gives both the Secretary of State and the Attorney General authority to make awards for information regarding threats and acts of international terrorism. How is the FBI involved in this area?

Mr. WEBSTER. The FBI would be involved to the extent that international terrorists' activities were taking place in the United States, or in which the United States was being used as a base for the conduct of international terrorism abroad, and we would be supplying information and intelligence either for our own investigations internally or for activities to deal with that problem abroad, performed by other agencies.

Mr. EARLY. Mr. Director, I see the State Department as a diplomatic department. I see you as crime fighters. Why do we give the State Department \$5 million to go out and get informers?

Mr. WEBSTER. Of course, that is part of the legislation.

Mr. EARLY. And it's terrible.

Mr. WEBSTER. That has been adopted. I would like to see as much of that under the control of the Attorney General as possible.

## JUROR PROFILING

Mr. EARLY. I do, too. They get a request for \$5 million. According to the Act, they can give up to \$100,000 or whatever they want to give. It has you competing, and that to me is wrong. Let me ask you one final question to stay within my 10 minutes, Mr. Director.

I have a question on a recent case in Massachusetts. Does the FBI do a profile on all potential jurors in all cases?

Mr. WEBSTER. No, it does not currently do so. I know of no legal impediment to our doing it, but we have not been asked to perform that function in the past.

Mr. EARLY. I understand that they do a profile on jurors, but you are not saying that it is not Justice. You are saying that you do not do it?

Mr. WEBSTER. We have not been asked to do it. I know that that is a common practice for defense counsel, to conduct psychological studies. Some have done it very successfully. Some have spent a lot of money on it. I do not believe that in the ordinary case—in fact, I don't know of any case, but I certainly know that in the ordinary case the Government attorney does not use psychological advice for selecting jurors.

Mr. EARLY. I just saw this particular case where the defendant probably was acquitted because he was able to spend a half million dollars and to do that type of profile on jurors. But it has been brought to my attention that the Justice Department does it, and you suggest they do not, which is fine with me.

Mr. WEBSTER. As far as I know, they do not do it.

Mr. EARLY. There is no money in this budget for you to do it?

Mr. WEBSTER. None at all.

Mr. EARLY. Thank you, Mr. Chairman.

## STATUS OF FBI/DEA RELATIONSHIP

Mr. SMITH. Mr. Dwyer.

Mr. DWYER. Mr. Director, I wonder if you would clear up for me the status of the DEA and the FBI. Are they merged? Are they not merged?

Mr. WEBSTER. Well, for a lot of reasons we try to stay away from words like merge, because then you get into a serious discussion about what that means. As they like to say in the soap operas, we have a meaningful relationship, which is more than meaningful, and I would like to particularize on that a little bit.

In 1982 the Attorney General gave the FBI concurrent Title 21 jurisdiction with DEA and directed that the DEA should report through me to the Attorney General, in order to develop an overall cooperative strategy between the two agencies, and with instructions to bring the agencies as close together as possible.

That same year we developed an implementation agreement, under which the FBI and the DEA worked out what we would respectively do, what our individual and combined missions would be, so that we wouldn't be stepping all over each other's feet, and that we would make the best use of our resources.

We could put all 8,000 agents into drugs, but we would then not be carrying out our other 200 Federal program responsibilities. We have concluded that the best thing the FBI could do would be to apply its existing expertise in the organized crime area, i.e., organized crime in drugs, financial crimes in drugs, and public corruption in drugs, and that has been the specific focus of all FBI activity. In addition we are working on some major impact drug cases where DEA was thinned out beyond its capacity to deal with it in a particular area of the country.

We have established a working relationship with a defined procedure for the sharing of information and dispute resolution that has functioned very well. These implementation agreements have been overhauled several times in the past three years, and we have begun to focus on a joint investigative strategy, as I think I mentioned earlier in my testimony. We have over 800 joint investigations going with DEA.

In some offices DEA agents are colocated with FBI agents in particular investigations.

We have been performing a number of important functions through a link-up committee that I established in 1984, to address better coordination in the area of technology, operations, budget formulation, and long-range planning.

We are currently addressing areas in which we can work together better administratively, in terms of law enforcement support functions, in technological improvements, in training, and in our operational techniques.

We have combined a number of administrative functions to save money and do a better job, such as joint contracting, when Congress gave us the ability to relocate agents, and employ outside contractors, to help agents move their families. It is very important, psychologically, to help get families back with the agents, to be transferred as soon as possible. The FBI carried that legislative effort to the Congress for the entire Government, and the FBI and the DEA were the first agencies of Government to establish a contract out-

side, with Coldwell Banker and two other groups. That is a joint FBI/DEA initiative, just one but a very important one. We are also utilizing a single contract to do physical examinations. We now have, and will have in the 1987 budget, formal coordination between the FBI and the DEA on what our combined financial needs will be.

We have been assisting DEA in the procurement of replacement vehicles, helping in a number of ways, including getting their automation efforts started. I have assigned FBI supervisors to DEA to help develop or strengthen programs such as planning, internal audits, legal counsel, and a whole range of things designed to improve their automated capability.

We are evaluating the feasibility of doing the maintenance of DEA vehicles within the FBI maintenance system. DEA has been contracting that out.

The same is true with respect to personnel records, and location and space. We are working on coordinated systems for handling the forfeiture and seizure of property in the course of our investigations. We are working on a joint career development program and transfer policy. We have been working with the Department to try to bring our guidelines into sync.

On the use of undercover agents, for instance, there are different procedures that have to be worked out. I have approved an interim procedure but we need a better one.

We have separate laboratories, and we have worked that out very successfully. DEA laboratories do the chemical analysis on drugs seized, and the FBI laboratory conducts all other forensic examinations.

We are now at a point where we are looking seriously at moving, and this is still under study, but moving the DEA training program from Glynco, Georgia, to the FBI Academy. There are many, many benefits for DEA as well as the FBI in doing so.

We have improved our participation in the EPIC center, which I mentioned earlier in responding to a question from Congressman O'Brien, where the FBI had not had as full a commitment as some of the other agencies, and we have taken care of that.

Mr. Dwyer. Can you capitalize, convert all of these efforts into dollars and cents, Mr. Director? What does it cost the FBI?

Mr. Webster. These efforts are producing some economies of scale. We are doing this within our existing budget, predominately through our organized crime program. I don't think that, in terms of dollars, the employees that we have put over in DEA have been an extraordinary cost to us. It has benefited the consolidation effort.

We are putting some DEA agents in FBI. We are cross-training. We have trained hundreds of FBI agents in drugs at Glynco, and we have trained DEA agents in our responsibilities, but what we are trying to do—and I am ticking these off rather fast and in not too logical an order but to illustrate that these two organizations are coming closer and closer together.

We have been able to work it in this way, rather than to subject the Drug Enforcement Administration to another one of the rounds of reorganization that it had been put through for so many years, first in Treasury, then in the Department of Justice, then back in

the Treasury and back to the Department of Justice, changing its name, changing its responsibilities, and having a very demoralizing effect on the agents themselves, who wonder who they are and for whom they work.

None of that has happened here, and all of this effort has been achieved without a single moment of down time or loss of momentum. None of the things that I have described to you have cut into DEA's ability to function as a separate agency, but have improved its capability. Now we are at a point in time where I think we can begin to save the Government some money and certainly increase our joint effectiveness by dealing with some of the differences that exist between us.

For example, the radio communications system in our cars, we are on VHF, they are on UHF. We ought to be able to communicate with each other in our joint operations, and we are attacking that major problem. You are talking about the largest combined vehicle fleet in Government, but we are dealing with each of those things as they occur, and we anticipate them, so that at some time down the road, if it logically appears the DEA should be part of FBI, we will be able to make that step in the interests of better law enforcement, without creating disruption and down time.

At the same time, the decision hasn't been made that we are going to immediately do it, because the oversight committees and others have a interest in this, and we want their advice and counsel.

#### FBI EXPENDITURES ON DRUG ENFORCEMENT

Mr. Dwyer. But I think it is important to this Committee, at least to this Member, that we have some idea of what the FBI is spending on drug enforcement.

Mr. Webster. Yes.

Mr. DWYER. So I can combine your budget with the DEA budget and have some idea of what this is all costing us, and I will ask you one more question, if we have enough time.

Mr. WEBSTER. I can answer that very quickly, I think, to the extent that those figures are available. A little over 1,000 agents, between 1,000 and 1,100 FBI agents are working full time in drugs. Part of our historic mission focused on drugs, and that is  $\frac{1}{8}$  of the agents, in agent time, that is.

There is a budget of about \$34,428,000 for the FBI's contribution to the Organized Crime Drug Task Force, which is a part of the overall program, in which we work jointly with Customs, DEA and other agencies, but if you want to look at it in terms of people, and I can try to convert it to dollars for the record, but I don't think I have those figures.

Mr. DWYER. For the record, fine, Mr. Director.

Mr. WEBSTER. But we have about  $\frac{1}{8}$  of all our agents working drugs at the present time.

[The following information was submitted:]

#### DRUG-RELATED EXPENDITURES

In fiscal year 1981, fiscal year 1982, fiscal year 1983, and fiscal year 1984, the FBI expended \$8.3 million, \$40.0 million, \$107.6 million, and \$97.2 million, respectively, on narcotics-related matters.

## PROGRESS IN COMBATING THE PROBLEM OF DRUGS

Mr. DWYER. I would like to get the total figures to have some idea of what we are spending in this area, and then I would ask the next question. Are we making any headway in this area?

Mr. WEBSTER. That is a fair question, and I am going to fight giving you a long answer, because you have to say with what it might have been or compared—we have to have some basis for comparison. I am very glad that we undertook this effort three years ago. I think the country would be in terrible shape today had we not undertaken it.

This is not to say we have stopped drugs, because we haven't, the drugs continue to come. The seizures are enormous, but the seizures are only part of the problem, probably the least part of the problem. The major effort has to be to stop the growth of drugs outside the United States, and to break up the machinery and apparatus inside the United States. This is taking place, there have been major successful investigations.

More is still ahead of us, it is not a sport for the shortwinded. We knew that when we got into it, too much had happened. We were too far behind when we got into this, but we are making very substantial headway, more people are going to jail, more drugs are being seized than at any time in our history, but the drugs continue to come, and as long as there is a demand for drugs, I suspect that they will continue no matter how hard we try. There has got to be more than to it than just law enforcement effort, more attention has to be given to reducing the demand for drugs.

When I get on an airplane and look and see where that No Smoking sign is today, and where it was maybe five or six years ago, I am convinced that we can do the same job with a much stronger case for the American people, and particularly our young people, than we are doing now.

Mr. DWYER. I agree with you there, Mr. Director. Thank you, Mr. Chairman.

Mr. SMITH. Mr. Regula.

## WITNESS PROTECTION PROGRAM

Mr. REGULA. Thank you, Mr. Chairman. I have just a couple of questions, Mr. Director. Is your witness protection program adequate, because it seems to me one of the key elements of addressing organized crime is to get people who are willing to testify and come forward.

Mr. WEBSTER. The witness protection program has been a very key element in our organized crime program particularly. These are normally people who have been associated with criminal activity, usually organized crime activity, and in order to get their testimony we have to assure them they are going to stand a reasonable chance of staying alive.

We do not run the witness protection program, that is under the control of the U.S. Marshals Service. But most of the individuals that go into the witness protection program are ours, so we have very much of an interest in it.

It had some major problems in administration a few years ago. I think these problems have been very seriously addressed by Direc-

tor Stanley Morris. We consider the program to be indispensable to the organized crime program, and we consider the organized crime program indispensable to the country.

I have between 18 and 20 percent of our full resources directed against organized crime, and you can tell from the recent indictment of the New York Commission and the others that we are making real progress there, but we need the witness protection program.

Mr. REGULA. Do you think that there are adequate resources for that program at the present time?

Mr. WEBSTER. I think that the Marshals Service, which gets the money for it, would be the one to answer that question. I think there were areas, like putting a prison in a town; everybody wants a prison but nobody wants it in their town. It's a little like having a protected witness in your town. We are making a lot of adjustments, good ones, I think.

In the NCIC system, for instance, when a protectee shows up in the system because he has been stopped for something the signal is immediately flashed to the Marshals Service, and they have responsibility for liaison with the local law enforcement officer about this, even though they have a cover name or a different identity. That makes the local chiefs of police feel better, that something isn't going on in their town without their being able to know about it.

#### FINGERPRINT AUTOMATION

Mr. REGULA. One of my staff visited down there last year, and it was indicated that there is a backlog of record-keeping on traces, apparently where you provide assistance to local law enforcement, and a lot of it was being done by hand. Has it been automated?

Mr. WEBSTER. Are we talking about the NCIC system now?

Mr. REGULA. Yes.

Mr. WEBSTER. I am not aware of this. I think that the NCIC system is providing fairly rapid responses, I think less than 10 seconds. Who is in a position to tell us about that?

It is all computerized. You might be talking about the fingerprint records that are turned in, and that is in the process of automation. In fact, fingerprint automation is in the final stage. We now have all the fingerprints in the computer. We have all indices in the computer. The final phase is to meld the indices and the prints themselves, in the computer.

Mr. REGULA. The program is underway?

Mr. WEBSTER. Well underway, and doing a very good job.

We had to stop a couple of years ago because our ability to finance it was gone, and the banks, beauty parlors and other licensing agencies were eating up all our available resources, therefore, we took a moratorium for a year. We promised to come back October 1, 1982, on a reimbursable basis, which we did right on schedule, and we dropped those card returns from something like 30 days to 12 days, and we have been holding our own available resources since that time.

## MISSING CHILDREN

Mr. REGULA. One last question. The Crime Control Act of 1984 provided for first-time federal assistance in locating missing children. Has this been attached to your bureau at this point, and, if so, what successes are you having in giving assistance?

Mr. Webster. We are providing assistance. The FBI volunteered to enter into the computer the names of any missing children whose parents could certify the local law enforcement agency would not enter. In other words, the local law enforcement agency is the first place to go, because we charge the local people with keeping track of their entries and clearing them when they find the kids. If the local police department wouldn't enter it, the FBI said it will enter it. Go there first, if they won't do it, we will enter it, and we have been doing that consistently since the legislation was passed permitting us to do this.

Surprisingly, there have not been that many requests on the FBI. I think we have entered less than 100 in the current year. Who has those figures?

Yes, that is correct, less than 100 requests. I think, too, though, that the fact that Congress gave us that authority put some additional pressure on the locals who were refusing to enter the requests. They are now doing it, and the system is functioning. We are a part of the system and we are cooperating fully.

Mr. REGULA. Thank you, Mr. Chairman.

Mr. SMITH. Mr. Carr.

## FBI RESOURCE REQUIREMENTS

Mr. CARR. Mr. Director, I get a little concerned sometimes that we may not ask the right questions. We know a lot to ask questions about things that appear in the headlines, and of course there are certain kinds of criminal law enforcement efforts which have some sex appeal, and generate some attention, and therefore a lot of public support. I just hear that there may be something out there that is very important that we are all missing here. I am not asking you to make a confession but you operate within certain constraints and checks and balances and politics within your own agency. I am wondering if there isn't a time when you sort of step back and reflect upon the broad front of your agency, and say to yourself: "Golly, now there is an area I wish we could beef up or do a little something with."

I can't believe that your line of effort is so uniformly strong and on the edge at every point that there isn't a soft spot that you would like to make a little better, and if there is such a thing, could you tell us about what that might be?

Mr. WEBSTER. I appreciate that kind of invitation. I am almost unprepared for it, but in thinking about our mission, in very simple terms, I think, is to do what state and local law enforcement can't do at all for themselves or can't do as well, because the nature of the crime goes across state lines or even into other countries. They don't have the contact points, the intelligence base, and so on.

I believe that our four top priorities, foreign counterintelligence, white-collar crime, organized crime and terrorism, are really the

things we should be focusing on, and we are, where most of our resources, our heaviest level of resources are going at the present time, because these tend to be areas in which local law enforcement lacks the capability and the intelligence and the contacts, as I said before, to do it.

We are not peacekeepers and we shouldn't pretend to be peacekeepers. We have less than one-third the size of the police force of the City of New York, with which to carry out our national mission. We should work, and work cooperatively, with other law enforcement agencies.

One of the ways that we do this is in training, for instance, where we work very closely to make sure that standards of training are high in state and local law enforcement, helping them to find their way into areas that we can't really address because we have neither the resources nor the personnel to do it. This approach has been working very well.

#### EFFECTS OF NEW LEGISLATION

In the last session, the Congress enacted a number of bills, part of the overall crime package, that put us in a much stronger position to deal with some areas of financial crime that I have felt for some time were going unaddressed. We lacked the tools or were denied the information that existed, because of various views on privacy and other things. We just weren't being told. It is ridiculous to have one agency sitting there knowing a crime has been committed but not telling the other agency, because of some statutory or regulatory impediment. I think we have made a lot of progress in the last session on that, and before I ask for any more in that area, I think we should give it a try, and see whether that doesn't improve our relationship.

There is a very important announcement being made today by the Department. All the bank regulatory groups are working now with the FBI in an effort to serve up information on embezzlements and internal crimes in a much more orderly, consistent pattern than we have had in the past, and I am very hopeful that that will help us to identify and maybe cut back on the amount of fraud and embezzlement that continues to exist in the United States.

Five times as much money goes out of the back door of a bank every year than is taken out of the front door in bank robbery, but that tends to be overlooked in terms of mission and enforcement.

#### NEED FOR ADDITIONAL SUBPOENA POWERS

I think that in terms of our ability to work in white-collar crime matters, the one area that we didn't get improvement in the last session of Congress is the administrative subpoena power. Over 80 regulatory or law enforcement agencies in the Federal Government have the power to subpoena records administratively, but the FBI does not. We have the major responsibility for white-collar crime, but for some reason we have never been given the authority to issue an administrative subpoena to see records.

As you know, an administrative subpoena is not like a search warrant. If they don't want to give you the records, they can refuse and then we have to take affirmative action and go into court to



enforce the order. But at least we have the authority to work in a more efficient way, to make demands on individuals, to seek documents that we otherwise have to convene a grand jury to have a look at, and it would seem to me that there isn't any logic to that. If the subpoena power has as much use as it has been given in other agencies of the Government, why shouldn't the FBI have it?

I think that would help us carry out that part of our mission which, as you say, does not have the pizzazz that some other things do, but where the American public is in the long run cheated by the major white-collar criminals, which are often inside corporations and places of that kind.

Mr. CARR. I thank you for your response. I think you are right. I would like to know a little bit more why you don't have that power, but that isn't something this Committee can supply you with anyway.

Mr. WEBSTER. No.

#### WHITE-COLLAR CRIME

Mr. CARR. I was thinking more in the area of resources, and I appreciate your answer that you want to wait a little bit after the Comprehensive Crime Control Act of 1984 and see how things shake out, before we address where you need some extra help.

I am concerned as well about white-collar embezzlement crimes. I have read in the newspaper about some possibility of criminal investigation regarding EMS in Florida that triggered the savings and loans problems in Ohio. It is not a very exciting issue until 70 savings and loans are closed up one day, and people are having a total loss of confidence in their financial institutions. I am not saying that there is criminal activity there.

Mr. WEBSTER. It can be very disruptive.

Mr. CARR. Is the FBI investigating something?

Mr. WEBSTER. Yes.

Mr. CARR. Is it in Florida?

Mr. WEBSTER. We are looking into that.

Mr. CARR. Someone was to be an auditor and whether they did the right job or not?

Mr. WEBSTER. That is right.

Mr. CARR. It could have led people in Ohio to detrimental reliance on some information that apparently wasn't there.

Mr. WEBSTER. That is just part of an overall investigative effort that is being managed inside the Justice Department. We are bringing experts in, prosecutors who have a better understanding of how financial institutions can be manipulated, experts to advise them on the basis of available records when that manipulation is taking place, in an effort to get out in front of some of these crimes.

We use kind of an overworked term, and I am not sure I like it, called "proactive," to deal with some of the things, such as trying to get out to the terrorist before the bomb goes off, taking measures to identify organized crime activities and develop a program to knock them out. The same thing is true here. If we can find a way to quickly spot a manipulation of this kind, before suddenly we are confronted with a bank failure, it would be a major contri-

bution to the citizens and the users, the depositors in those banks, as well as the people who supply underlying funds and the Government which insures it.

#### FBI BUDGET REQUESTS

Mr. CARR. Just so I close your own testimony and not let it drift away from my question. Insofar as appropriations and personnel are concerned, I know that you are going to say you are totally comfortable with your request, but are you without any area that you wish, under other circumstances and no \$200 billion deficits, you didn't have a little more funds, a little more personnel?

Mr. WEBSTER. Of course we asked for a lot more money than the Justice Department carried over to OMB, and OMB did not authorize as much money as the Justice Department requested, but we are simply a small part of a major fiscal picture. We accept that.

Mr. CARR. Have you given us a list of those items that you requested of Justice that they didn't carry on?

Mr. WEBSTER. No, we haven't.

Mr. CARR. Would you do that?

Mr. WEBSTER. If you are asking for it.

Mr. CARR. Yes, I am asking for it.

Mr. WEBSTER. We can supply that for the record.

[The information follows:]

#### REQUESTS TO THE DEPARTMENT AND TO OMB

The total FY 1986 direct funding request to DOJ included 10,006 special agent (SA) positions; 13,817 support positions; 23,823 total positions; and \$1,403,871,000 in budget authority. The FY 1986 program increase request to DOJ included 992 Special Agent positions; 1,942 support positions; 2,934 total positions, and \$223,933,000.

The total FY 1986 direct funding request to OMB included 9,719 Special Agent positions; 13,153 support positions; 22,872 total positions; and \$1,360,853,000 in budget authority. The FY 1986 program increase request to OMB included 619 Special Agent positions; 1,173 support positions; 1,792 total positions; and \$199,185,000.

The decision unit summaries of the FY 1986 program increase requests to the DOJ and OMB follow:

#### SUMMARY OF FY 1986 PROGRAM INCREASE REQUESTS TO DOJ

Decision Unit	Positions			Budget Authority
	Agents	Support	Total	
Other Field Programs .....	516	774	1,290	\$63,077
Organized Crime .....	224	406	630	30,853
Organized Crime Drug Enforcement .....	103	222	325	11,137
White-Collar Crime .....	119	102	221	8,073
Training .....				14,800
Forensic Services—Federal .....		9	9	699
ADP/Telcommunications .....	5	165	170	29,658
Legal Attachés .....	2	2	4	239
Records Management .....		24	24	603
Technical Field Support and Equipment .....		17	17	42,562
General Law Enforcement Training .....	10	14	24	1,709
Forensic Services—Non-Federal .....		2	2	44
Fingerprint Identification .....		102	102	9,291
Criminal Justice Data and Statistics Services .....	1	32	33	1,152
Executive Direction and Control .....	7	5	12	744
Administrative Services .....	5	66	71	9,292
Total FY 1986 Program Increase Requests (To Department of Justice)....	992	1,942	2,934	223,933

## SUMMARY OF FY 1986 PROGRAM INCREASE REQUESTS TO OMB

Decision unit	Positions		Budget	
	Agents	Support	Total	Authority
Other Field Programs.....	160	440	660	\$56,202
Organized Crime.....	212	299	511	19,114
Organized Crime Drug Enforcement.....	103	108	211	6,066
White-Collar Crime.....	119	102	221	6,069
Training.....				13,120
Forensic Services—Federal.....		6	6	521
ADP/Telecommunications.....	1	149	150	24,034
Legal Attaches.....	2	2	4	239
Technical Field Support & Equipment.....		2	2	55,965
General Law Enforcement Training.....	10	14	24	1,709
Forensic Services—Non-Federal.....		2	2	44
Fingerprint Identification.....				6,252
Criminal Justice Data and Statistics Services.....		27	27	981
Executive Direction and Control.....	7	4	11	522
Administrative Services.....	5	18	23	8,347
Total Fiscal Year 1986 program increase requests (to Office of Management and Budget).....	619	1,173	1,792	199,185

## FLEXIBILITY IN APPLYING REDUCTIONS

Mr. WEBSTER. I mentioned very early in the testimony, I think in response to one of the Chairman's questions, that where we have been directed to cut back specific areas, often those areas are in the wrong place. We would appreciate having the ability to recapture those savings where we can better afford to spend them, than in some of the more rigid directions that we have had.

Mr. CARR. I think this Committee would like to help you, if we know what those priorities are.

Mr. WEBSTER. Yes.

Mr. CARR. Sometimes we are just in the dark, unless you supply that information.

Mr. SMITH. Mr. Rogers.

## ANTI-DRUG EFFORT

Mr. ROGERS. Thank you.

I want to add congratulations to what is being done particularly with organized crime, and some of the very large drug busts that you have had over the last few years.

Mr. WEBSTER. Thank you.

Mr. ROGERS. However, comparative use and availability have surged dramatically, and remain at increasingly high levels. Heroin-related hospital emergencies increased by 71 percent in the four years from 1979 to 1983. Heroin overdose deaths increased 93 percent in that time. The use of cocaine is the most rapidly increasing drug problem, an estimated eight to 20 million people use it in

this country, and every day 5,000 people try it for the first time. The marijuana situation, of course, worsens every year, with record levels nationwide. Potency of both domestic and foreign marijuana has increased particularly.

Last year you said that you intended to step up the war against narcotics, and no doubt you have, but in spite of record-breaking seizures, it seems our problem just gets worse, in terms of availability and use, and clearly we are not winning that war. Is that correct?

Mr. WEBSTER. No one that I know of would claim victory at this point.

Mr. ROGERS. Why aren't we winning that war? What further steps can we take to stem the increase and merely stay on a plateau?

Mr. WEBSTER. Of course, I am hearing those figures, and I have heard them before, and there are various types of measuring and yardsticks. I was privileged to listen to the most recent figures being presented to the President last week, and I think that hospital indicator is an indicator of the level of violence, personal violence, associated with heroin, but I do believe that the figures, when they come out, will show that heroin usage is stabilizing. It is stabilizing at an intolerably high level but it is stabilizing.

Marijuana consumption among young people is going down. Cocaine is going up, no question about that.

Mr. ROGERS. Let me interrupt you. You are saying heroin use has reached a plateau?

Mr. WEBSTER. That is my understanding, that heroin has stabilized.

Mr. ROGERS. That is contrary to anything I have ever heard. I would like to see some numbers on that.

Mr. WEBSTER. I would be glad to supply it for you.

[The information follows:]

#### STABILIZATION OF HEROIN USE IN THE UNITED STATES

The Federal Bureau of Investigation (FBI) does not independently collect or maintain information on heroin use or heroin consumption in the United States. Rather, as a full member in the National Narcotics Intelligence Consumers Committee (NNICC), the FBI participates in an interagency effort at producing joint intelligence assessments or estimates. Formal methodology exists in order to determine the amount of drugs consumed illegally. Three variables normally considered are:

a. Prevalence of use, or the total number of persons using a drug during a given period of time.

b. Frequency of administration, or the rate at which the drug is taken.

c. Dosage, or the amount of drug used per administration.<sup>1</sup>

Collecting data and making reasonable estimates for each of these variables is problematic and varies in difficulty from one drug to another. These problems derive from the fact that NNICC is attempting to observe, collect data on, and measure clandestine and completely unstandardized activities.

With these considerations in mind, at the end of 1984 the consumption of heroin in the United States was estimated to be stable. Heroin was generally available in all cities on the East Coast. In Washington, D.C., all indications suggest increases in use. In the north central area and in southern California, Mexican heroin availability and use have increased. Mexican heroin is often encountered at the retail level

<sup>1</sup> An Evaluation of the Methodologies for Producing Narcotics Intelligence Estimates, The National Narcotics Intelligence Consumers Committee, August 1983, p. 17.

in high purities; "black tar" varieties are frequently analyzed at purities of 40 or 60 percent.<sup>2</sup>

The demographics of both heroin and heroin substitute users reinforces the stable use estimate. For example, the user population is aged between 30 to 40 years, with little reported use among persons under 20. The addict population appears to be primarily composed of recidivists.<sup>3</sup>

#### DEMAND FOR DRUGS

**Mr. ROGERS.** I went on a trip last spring with a House select committee to the Golden Crescent, the Golden Triangle, and saw what we were trying to do there with those governments to try to switch them from growing poppies to something else. We have made, of course, amazing progress in Turkey, but it seems like it is like a pillow: when you push one place it pops up another, and we push it out of business in Turkey and it pops up in Iran. We are pushing it out of business in Thailand but it pops up in Burma and in Laos.

I hate to be pessimistic about this, but I don't see any hope that we will ever eradicate the growing of poppy somewhere in the world. Obviously we can't do anything to eradicate the growing of poppy in Iran, the world's largest producer, or in communist Laos, or even in Burma, supposedly a friend that is doing very little in my judgment to stem the growing of poppy, and you are making superhuman efforts, in my judgment, to stop the flow of heroin in this country and other drugs, and yet in spite of those world-wide efforts, we are seeing a huge amount of heroin come into the country and be consumed in the country, which leads me to the feeling that our problem is not a law enforcement solution. It will not see a law enforcement solution. The solution is going to have to come in the hearts and minds of those who would use the product. Is that a fair conclusion?

**Mr. WEBSTER.** I think it is a very fair conclusion.

Earlier in my testimony I stressed that drugs would continue to come into the country as long as there was a demand for it, and I think that we can do a significantly better job in addressing and reducing the demand, just as we have done in the case of smoking and in other areas where we have really set our mind to educating the American public, and particularly the young people.

I don't know what impact education has on heroin abuse, but certainly in marijuana and cocaine, we can, and we must, focus our efforts here. Education is at least 50 percent of the equation, I don't think you can ignore supply. I think we have to enforce our laws and persist in trying to keep drugs out of the country by prosecuting and imprisoning, with severe punishment, for those who continue to try to fuel the fires that lead ultimately to exposure and demand. And we must continue to do that. We have supported every effort that we can identify that has a chance of succeeding, in terms of reducing demand.

The National Federation for Drug-Free Youth is a coalition of very effective local organizations, acquiring information to carry the message back into the schools, the churches, the homes, and are doing a very good job.

<sup>2</sup> DEA Monthly Digest of Drug Intelligence, Drug Enforcement Administration, December 1984, p. 2.

<sup>3</sup> Ibid., p. 8.

Mrs. Reagan is going to host a conference of 14 first ladies from other countries very shortly, to enlist their help in reducing worldwide demand. What happens abroad obviously affects us here at home.

The DEA and the FBI are cosponsoring a program involving sports figures, sports leaders and the sports industry to provide role models to go into the communities and talk about the damage of drugs, and the reasons drug abuse is bad for an individuals' health and harmful to the community as a whole. We have hope for that program. It has been underway less than a year, but we are getting very good cooperation from the sports industry.

There are people like Peter Ueberroth who have recently become involved in this program in the baseball industry; Pete Rozelle is supporting it in the football industry.

We have got to get behind the effort. I watched in a small microcosm. Of course, there is some enforcement that goes with it in the military. You know, 33 percent of our armed forces were using drugs two or three years ago. It is down now to I think between five and 10 percent. It is way down, and I remember the motto in the Navy. There were different things in different services, but the motto in the Navy was: "Not in my Navy, not on my ship".

People are beginning to realize their lives, their safety and their well-being depend on somebody who may be on drugs, and they are not standing for it.

Mr. ROGERS. Also the urine test helps some.

Mr. WEBSTER. Of course it does, but we can't do that to the American public. At least I don't know of any law that permits it.

Mr. ROGERS. They haven't tried it.

Mr. WEBSTER. We haven't tried it. It may come to that, but I hope not. I hope we can do it by persuasive means.

Mr. ROGERS. It seems almost tragic that we spend all of this effort and time convincing people not to smoke tobacco. I happen to come from a tobacco area, so I resent it even more, and not spending very much money or efforts on convincing people not to kill themselves with heroin or cocaine.

Mr. WEBSTER. I couldn't agree with you more, and, as I mentioned earlier, when I see where the "no smoking" sign is these days on airplanes, I know that that educational message carries weight, and we ought to be able to carry an even stronger case on drugs to the American people.

#### ORGANIZED CRIME

Mr. ROGERS. That is right. And the movement of that "no smoking" sign on planes worries me a little bit, perhaps for a different reason than it worries you. I agree with you that law enforcement obviously is a major part of the problem, but it seems like we are not winning the war. In fact, I think we are probably in a stage of losing the war, unless further steps are taken, perhaps, in the efforts to convince people.

Mr. WEBSTER. It is a very sustained effort, and it is not the kind of war you can win overnight, and anyone that looks for that kind of victory is going to be terribly disappointed and disillusioned. Breaking up some of the most sophisticated organized crime distri-

bution systems and enterprises is a major undertaking. The Badalamenti case is a good illustration. There were dozens of indictments, a nationwide network. It was literally unknown to us five years ago. It was there but we didn't know about it.

Mr. ROGERS. Also in that connection I happened to have been in Italy at the time when the efforts were beginning or at least well underway towards cooperation with you on trying to break up that Rome-East Coast U.S. connection on organized crime and particularly drugs.

Mr. WEBSTER. Right.

Mr. ROGERS. To what extent has the Rome crackdown and the improvement of their laws aided you here?

Mr. WEBSTER. I think it has helped us a lot. The Buccetta arrest gave us an inside look at their apparatus and their connections in the United States. Others are beginning to cooperate out of the Badalamenti case. Every bit of new information provides additional cases, additional ways of breaking up things that are going on over here.

I was in Rome for five days in January, meeting with the top law enforcement agencies there. This is now about the third time that we have met. We had a meeting in the United States, and we will have another one probably before this summer.

Our computers are being laid out to share information and techniques for working together on joint operations. The magistrates over there, the investigative magistrates, are doing a superb job, considering where they started from. That is why I am very optimistic about dealing with at least the Rome connection.

I am sure we will now see Oriental gangs beginning to try to pick up the slack. The outlaw motorcycle gangs that we have been cracking down on recently have been instrumental in peddling Methaqualone, commonly referred to as Quaaludes, and other forms of drugs, but they are still picking up the crumbs. They have delusions of grandeur that someday they are going to step in and fill in the vacuum. When we successfully break up a major enterprise, we accomplish perhaps the most important endeavor to break up the enterprise, the apparatus. It takes time. It takes penetration. We have used court-authorized wiretaps. We have undercover agents functioning. It doesn't do any good to make a quick arrest with someone who is making a transaction at the final outlet level. We have to build the case for prosecuting up the ranks, and this is what we are doing. This is what we have been doing in the last two or three years.

Mr. ROGERS. Is Rome cooperating with you on sending witnesses here to help in prosecutions over here, and vice versa?

Mr. WEBSTER. Yes, they are helping on the sharing of witnesses, and also on extradition issues, bringing people back for trial.

Mr. O'BRIEN. Will the gentleman yield?

Mr. ROGERS. Yes.

Mr. O'BRIEN. Mr. Webster, I remember a year or so ago we spoke a little bit about General Dozier and it was my impression that among other things you said with respect to that case that the Italian apparatus was somewhat less subtle than ours, in their handling of situations, and people suspect. Is there anything that you think not just this Committee but the Congress could or should do

in keeping with Mr. Rogers' questions about the drug situation, that would give you some help?

Mr. WEBSTER. I would like to think about that a little more before I give you a flat answer. I think that the Supreme Court decisions by and large have clarified our positions more favorably with respect to search and seizure rules, which I think is in line with what we were talking about a year ago. We don't bust down doors, but when we find evidence now, particularly in automobile cases, the courts are much more tolerant of what is often an instant decision-type response. The police officer has to make a judgment out there when things are happening fast, and I think the more recent opinions give us a little more latitude in terms of using good detective work and getting at fast-breaking drug situations. I am encouraged by that.

Mr. O'BRIEN. Thank you, Mr. Rogers.

#### JAPANESE ORGANIZED CRIME

Mr. ROGERS. Have you seen, are we beginning to see in this country, the impact of the Japanese organized crime group?

Mr. WEBSTER. Yakuza.

Mr. ROGERS. Yes.

Mr. WEBSTER. We are beginning to see it. We are beginning to see the groundwork laid for it. We see more of it in Honolulu, I think, than we could in most places. It is mostly confined to the West Coast, with some contacts on the East Coast. It is the largest organized crime apparatus in the world in terms of sheer numbers, but it tends to operate in ethnic areas. We are staying close to it, just as we are the Oriental triads that come out of China.

Mr. ROGERS. Are drugs involved with that organization to a large extent?

Mr. WEBSTER. We have not uncovered any formal, trafficking network in the sense that we have identified it with the New York families, but I do believe that there is some interest in drugs.

I am advised that basically their activities have been in firearms and prostitution. They are not in drugs, but are expressing an interest in drugs, and there is some indication they may be moving in that direction. These organizations are very good at trying to fill vacuums when they see them coming.

Of course, following the principle of the edge, any criminal enterprise wants to go where their techniques will provide an edge, a quick profit, a major profit, for very little work, whether it is by using force, intimidation or coercion, and they are no different.

#### PREVENTING LEAKS OF CLASSIFIED INFORMATION

Mr. ROGERS. What can we do to prevent leaks of classified information?

Mr. WEBSTER. I was very pleased to see a company where my son works, McDonnell Douglas Corporation, producing its own internal film for its executives and scientists traveling abroad to alert them to the kind of contacts they might receive, the kinds of innocuous associations that might be coming their way, which is the traditional subtle way for Soviet espionage agents to build up to a recruit-



ment approach. I hope that other companies in our country will take it as seriously as McDonnell Douglas does.

Mr. ROGERS. Do you think this education program will be sufficient?

Mr. WEBSTER. No, I don't.

Mr. ROGERS. Or are there other things that we can and should be doing?

Mr. WEBSTER. I think that is just one small effort, and it ought to be reinforced at every level.

Mr. ROGERS. Do any specific ideas come to your mind at this moment that Congress could do to assist in that?

Mr. WEBSTER. There are severe penalties. The espionage laws are cloudy, I think, about whether some types of activity such as Morrison giving the classified photographs to Janes Fighting Ships actually falls within the espionage statutes, and so on. Maybe somebody ought to take a look at the espionage statutes to see if they adequately and clearly cover the giving away of classified information. That is one thought.

#### COOPERATION BETWEEN THE FBI AND THE STATES

Mr. ROGERS. Let me close with just a comment. I am an old state's attorney in Kentucky, and so I sympathize with practically all that you do. However, in my experience many times the FBI was uncooperative with some of the state agencies and even local agencies in some of those prosecutions, and it was sometimes difficult to get along with, to be frank with you, about sharing information and assisting particularly where the FBI was not the lead agency in the case. I got the feeling that sometimes the FBI wasn't too excited about getting in a case unless they were going to get publicity for it.

I say that advisedly, because of all the good work you do. That is one of the negative things that I wanted to bring to your attention.

Mr. WEBSTER. I know that I inherited some perception of that historically. I think that if you talk to the International Association of Chiefs of Police or any of the major leaders in many of the major police organizations, you will get a different answer today.

If you come to our headquarters—and we certainly welcome you there anytime to see what we are doing—in our courtyard you will see in big brass letters, six inches high, this quotation: "The most effective weapon against crime is cooperation, the efforts of all law enforcement agencies with the support and understanding of the American people." That was put up a few years ago in our courtyard. It is the only quotation that is there. It is the only theme of my administration, and I think you will find that we have made every effort to provide that kind of cooperation.

I just sent out another field advice on diversion cases, not to worry about whether or not it resulted in convictions, appropriate recognition will be given cases that result in local prosecution.

There will be pockets, I am sure, where we don't have the level of cooperation we want. Sometimes it is not our problem. Sometimes we are dealing with a police official of doubtful integrity, and it is our job, of course, as you know, to investigate allegations of police corruption at state and local levels. It is part of our responsi-

bility, but in the main we try to work as closely as we can with police officials and to share with them. In many areas significant things are happening.

We have had for over three years a joint task force in New York on terrorism and on bank robberies, which incidentally often go hand-in-hand, and they have had upwards of 30 or 40 of New York's finest police officers, police detectives, housed in the FBI Headquarters in New York City. There are other joint task forces in other parts of the country that are functioning equally well.

In the Department of Justice, the Attorney General has sponsored law enforcement coordinating councils, in which state, local and Federal law enforcement officers and prosecutors meet on a regular basis to hash out and surface problems. The mere getting together has a salutary effect in talking it through. I have gone to a number of coordinating councils to meet with them, have lunch with them and speak to them.

I don't believe that the level of police cooperation, interagency cooperation, has ever been higher in the 20 years that I have been associated with the criminal justice system.

Mr. ROGERS. I congratulate you on using cooperation as your watchword. As I say, I came here in 1981 and I have not seen the fruits of your labor on a firsthand basis prosecutorial level, so I hope and trust that the cooperative watchword continues.

Thank you, Mr. Director.

#### BUDGET REQUEST TO OMB

Mr. SMITH. How much did you ask the OMB for, and what represents the difference between what you asked for and what you got?

Mr. WEBSTER. We asked OMB for 9,719 special agent positions, 13,153 support positions, 22,872 total positions, and we requested \$1,360,853,000 in budget authority.

Mr. SMITH. And what was turned down? Those things that were turned down or reduced, what does that represent?

Mr. WEBSTER. What came through in the final budget was a reduction of 449 agents, 1,015 support positions, or a total of 1,464 positions, and a reduction of \$175,189,000.

Mr. SMITH. If you had gotten those 449 agents, how would they have been used?

Mr. WEBSTER. I have those numbers, but the major places where they would have been employed would have been in organized crime, 212 agents. I won't list all the numbers but others would have been in the organized crime drug enforcement program, the white-collar crime program, and foreign counterintelligence.

Mr. SMITH. We will put the details in the record.

Mr. WEBSTER. Yes, we will do that.

#### DEFICIT REDUCTION ACT

Mr. SMITH. And with regard to this rescission, \$3,505,000, what will you reduce?

Mr. WEBSTER. We have been directed to take it out of some specific programs. We are hoping that Congress will find a way to let us use a little more discretion in where we take it out. If we take it out, \$1,074,000 will come out of our public affairs program. The

amount is so large in relation to the total budget of this function that we probably will have to suspend the publication of the Law Enforcement Bulletin, which is the premier law enforcement publication that goes to state and local law enforcement agencies throughout the United States. It has 66,600 subscribers, and I would hope that that won't be necessary, but we can pick up approximately \$800,000 that way. We would have to cut into our printing and publishing operation, which really directly supports the investigative function and mission of the FBI, and I would hope that that would not be necessary.

Mr. SMITH. Does any of this rescission represent funds that you don't really need?

Mr. WEBSTER. No, it does not, Mr. Chairman, but we recognize if the administration and the Congress want to recapture some of the funds—this is the Congress Deficit Reduction Act—we think we have a better chance of finding it in places where it will not be as damaging if we had the flexibility to look for the amount somewhere else.

Mr. SMITH. Do you think you could recapture any of it without doing damage to any area?

Mr. WEBSTER. Naturally we have not asked for more than we thought we needed, but we do think that we can recapture in areas that are least likely to damage our mission and our effectiveness.

Mr. SMITH. But to the extent you didn't have to, you could, for example, on some of these other things you didn't get in 1986, convert it to that use or start it sooner?

Mr. WEBSTER. Yes, we could.

#### COMPREHENSIVE CRIME CONTROL ACT OF 1984

Mr. SMITH. I wanted to ask you about the Comprehensive Crime Control Act. How is that going to impact on you?

Mr. WEBSTER. It increases our responsibility substantially, especially in the white-collar crime area where we now have authority to investigate some of these financial crimes we talked about earlier. We have asked for a supplemental to deal with that.

Mr. SMITH. What about your activities on missing children; is that going to have any impact?

Mr. WEBSTER. I don't think that is a major financial factor.

#### FINGERPRINT AUTOMATION

Mr. SMITH. Your automation of fingerprint identification.

Mr. WEBSTER. That is coming along very well. That is one of the areas from which we might recover some funding. I understand that we are actually operating something like \$5 million under projected costs in this area, and we could probably use that area to absorb some of the reductions, if we are required to make them, and if we are given the flexibility to reallocate the burden.

Mr. SMITH. If we don't do that, then you won't need the \$2 million extra that you ask for for next year; is that right?

Mr. WEBSTER. I have been advised that we are not going to have to come in for any more on AIDS III, Mr. Chairman. I think this is the final workout on it.

Mr. SMITH. So you will complete it?

to submit a proposal to the Committee for additional resources should this be appropriate."

I think terrorism, as I have for the last several years, is the biggest threat this country has, and you are coming in here with reductions. Last year we combined the international terrorism and the domestic terrorism programs. Earlier you said to Mr. Dwyer that the FBI's role is to supplement the states and localities when they can't do it.

I don't think the locals can cope with terrorism. Shouldn't we be doing more? Back when the FBI was just an organization restricted to kidnapping and banks, it was a much more prestigious organization. Now we have got you out doing everything, Isn't domestic terrorism really one of your prime functions?

Mr. WEBSTER. That is why it has been designated as one of the top priorities.

Mr. EARLY. But we haven't given you the money. You designate it but you didn't get the money in the last few years.

#### DOMESTIC TERRORISM

Mr. WEBSTER. I think back over my testimony over the last eight times I have appeared here, and I think the first time I appeared I said I thought we were at rock bottom, and we were on domestic terrorism, and the budgets kept cutting in. We were not getting what we asked for.

We have been very careful about not seeking to expand our domestic security work beyond real terrorism. At one time the FBI's budget—years ago we were spread out in so many places, in so many school boards, and the Socialist Workers Party, and so on, that we were not getting a return for that effort, and we were resoundingly criticized for intruding into organizations.

Now, of course, the concern is back about terrorism. The reality of terrorism in this country is that we have dealt with it very well with the resources that we have. Your figures, of course, have to do with domestic terrorism. Our budget for international terrorism and our utilization of that budget has gone way up.

Mr. EARLY. But last year you came in with statistics, too, as far as the question what can be reported on the terrorism program during the year, how many groups, et cetera, and how many individual domestic terrorism investigations are there currently, and then you give us a list of the decline.

I congratulate the FBI on your recent arrest of Levasseur. We have discussed this over the years. It is that statistic, not these statistics, that the FBI presents which is what I would want to give you the money on.

Mr. WEBSTER. I appreciate that, and sometimes we don't focus in on the things that are of greatest interest and concern to you, and I appreciate the opportunity to correct that.

Mr. EARLY. What I am trying to say is that you are giving us all these statistics and this and that. The FBI used to be the most distinguished, the finest agency in Government. In my opinion it's come down a bit, Mr. Director.

Mr. WEBSTER. I would certainly like to do what I can to restore your confidence in it. I don't know how anybody can say that the

ry any further; therefore, it cannot be determined how many of those children may have been abducted by a person other than their parent.

On April 1, 1985, the NCIC MPF had a total of 27,771 entries in all five categories involving a person under 18 years of age. Consequently, the percent of involuntary missing children in the NCIC MPF on April 1, 1985, was 1.6 percent of the total number of missing children entries.

#### PARENTAL KIDNAPPING

Mr. SMITH. There are about 300 missing children in Iowa, and obviously very, very few of them have been kidnapped or anything like that. But we have no way of knowing which ones.

Mr. WEBSTER. That is true.

Mr. SMITH. So until they are found the parents worry about it. They think they were kidnapped.

Mr. O'BRIEN. Will the gentleman yield?

Mr. SMITH. Yes.

Mr. O'BRIEN. With respect to the case cited, the Long Island experience—those kinds of cases don't bother me much. Maybe they should. That is a husband-wife-father-mother dispute.

Mr. WEBSTER. Yes.

Mr. O'BRIEN. In most cases those children are not being abused. It is the other kind that bedevil us.

Mr. WEBSTER. The abduction of children for any number of reasons from their lawful parents is something that really tugs at the hearts of most Americans. We relate to it because we wonder about our own children, or our grandchildren.

Mr. SMITH. Mr. Early.

#### ADMINISTRATIVE SERVICES REDUCTION

Mr. EARLY. Thank you, Mr. Chairman.

Mr. Director, that flexibility you are speaking of are you going to need that flexibility to correct that close to \$5 million cut in the administrative services program. Do you anticipate you will be re-programming and putting that money back before it is over?

Mr. WEBSTER. I think that is probably true, Congressman Early. These particular areas have not had substantial increases.

#### TERRORISM

Mr. EARLY. Mr. Director, I have read your statement with regard to all of the statistics. They are impressive statistics. Not as impressive as Mr. Morris yesterday. We gave him a little money for the U.S. Marshals and they made 134 arrests in 10 days. We have yours. I notice in your statement, Mr. Director, with regard to the increasing threat of terrorism, you say, on page 22, I think: "In view of these increased threats, the Director of the FBI decided to elevate terrorism to the status of a national priority program effective October 1, 1982."

In October 1982 when you were here, the fiscal year 1982 budget request for the FBI reflected a reduction of \$286,000 and 21 positions for the terrorism program. This decrease was based on that.

"While the Committee has approved this reduced reduction the Committee remained concerned about the adequacy of the level of resources allocated to the terrorism program and expects the FBI

Mr. WEBSTER. Yes.

Mr. O'BRIEN. Will the gentleman yield?

Mr. SMITH. Yes.

#### MISSING CHILDREN

Mr. O'BRIEN. Mr. Webster, just one thing the chairman brought up. With respect to missing children, in our area, or the area that I come from, there is an organization called Aunt Martha's. That is sort of a folksy name, but it is very, very effective. It has volunteers at places regularly in bus stops and machine shops and things of that sort, but there is another group that insists that we would do better with some kind of brochure or pamphlet that has pictures of children. Do you have any estimate of what works in this area?

Mr. WEBSTER. We have seen examples of children who have been returned because of some form of publicity, some awareness. We know our own experience with the 10 most wanted lists that we put in the Post Offices and so on, where we have been very helpful in getting citizen attention. We had a case just a week or two ago of a youngster who was kidnapped by a parent, from Kentucky, and taken to Long Island where he had been missing for some time. One of the programs that identified missing children showed his picture, and he and the babysitter saw it. The babysitter made contact with the mother in Kentucky, and then later in the day the child called and talked to his mother, but didn't say where in Long Island they were. I think some very good investigative work was done by the FBI agents out there. The boy mentioned he had a role in a play, "Oliver." The agents got busy and they checked every elementary school on Long Island to find out who was producing "Oliver," and they found the school and the child and he has been returned to his mother.

Mr. SMITH. What percentage of these children are not runaways, or with one of the parents, involuntarily?

Mr. WEBSTER. I don't think I can give you a percentage off the top of my head. If we have any figures, I will certainly supply them for the record. The law enforcement community believes that the vast number of instances are children who have simply done one of two things, either run away or have not just disappeared for a while, and they show up later. I think that accounts for their initial reticence in entering names into the computer. They have the responsibility to police those names, once they are in the NCIC system, and they want to wait a little bit to be sure that somebody really is a missing child.

[Additional information follows:]

#### MISSING CHILDREN STATISTICS

Information concerning missing children is maintained in the FBI National Crime Information Center (NCIC) Missing Person File (MPF). The complete MPF includes entries in the following five categories: Juvenile, Endangered, Involuntary, Disabled and Catastrophe.

The definition of involuntary according to the NCIC MPF operations manual is a person of any age who is missing under circumstances indicating that the disappearance was not voluntary, i.e. abduction, kidnaping.

On April 1, 1985, the Involuntary category had 448 entries for persons under 18 years of age. In most states the term missing child refers to an individual who is under 18 years of age. The NCIC MPF does not break down the Involuntary category-

FBI is doing less than an outstanding job on terrorism. Look at the situation around the whole world, Mr. Congressman. Last year we had eight domestic terrorist incidents in the U.S., 5 in Puerto Rico; we had 31 the year before; we had 51 the year before that. We are pushing it. We are going against the world trend. We have interdicted the major terrorists.

You talked about Levasseur and the Voloslok case. We have gotten hold of other terrorists. We are not content with working the left side. The Aryan Nations, the far-right group that has been accumulating hand grenades, ammunition, designating hit teams, Matthews, Pierce, Lane, all within the last 10 or 12 days were produced by this type of investigation. We are keeping terrorism down.

Last year we had the Olympics, the world's greatest opportunity for international terrorism. We had a Republican Convention, a Democratic Convention. We had a World's Fair, and we had eight terrorist incidents. Not one person injured, not one person killed.

Mr. SMITH. Leaving out the Olympics and the Republican Convention——

Mr. WEBSTER. I think we are doing a whale of a job in that area, and I am not going to apologize for it.

Mr. EARLY. I just think you can do better. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Director. We have a few more questions which we will submit and you can answer for the record.

[Questions submitted for the record and the answers thereto follow:]

QUESTIONS SUBMITTED BY CONGRESSMAN SMITH

FEDERAL BUREAU OF INVESTIGATION

FY 1985 Program Supplemental

QUESTION:

You are requesting a FY 1985 program supplemental of \$1.5 million and 148 positions for implementation of the Comprehensive Crime Control Act of 1984. What specific programs of the FBI are affected by the Comprehensive Crime Control Act of 1984 and how did you arrive at the conclusion that you need 148 additional positions?

ANSWER:

The FY 1985 program supplement includes resources to implement the 1985 Comprehensive Crime Control Act (CCCA); these resources are annualized in the 1986 request. The total resources requested in support of the CCCA is 96 agent and 52 support positions for a total of 148 positions.

A breakdown of the 148 positions and the related program justification is as follows:

White-Collar Crime Program

- ° 113 positions to investigate the expanded jurisdiction under the Act in connection with:
  - 1) Credit card and computer fraud and counterfeit access, with a Memorandum of Understanding between the Secretary of the Treasury and the Attorney General;
  - 2) bank bribery, whereby it is a felony to offer a bribe to any official of a financial institution, or for such officials to accept a bribe, in connection with any transaction;
  - 3) bank fraud, which under this law covers all parties with any scheme to defraud a financial institution, e.g., check kiting; and
  - 4) the counterfeiting and forgery of state and corporate securities and international trafficking in goods which bear a counterfeited trademark.

Terrorism Program

- ° Twelve positions to investigate Federal offenses in connection with the damaging of any facility used in the production, storage, transmission, or distribution of electricity, fuel, or other source of energy and hostage taking, and investigations where hostages have been taken in an attempt to compel a third person or governmental organization to do or abstain from doing any act. The Act covers hostage acts abroad and inside the United States provided that the victims or perpetrators are United States' nationals.



### Organized Crime Program

- Twenty positions to investigate the additional responsibilities related to the use of an interstate commerce facility in the commission of murder for hire in line with Anti-Racketeering provisions - murder; enabling RICO prosecutions for the mailing of obscene or crime-inciting matter, importation or transportation of obscene matter, the mailing of indecent matter on wrappers or envelopes, the broadcasting of obscene language and transportation of obscene matters for sale or distribution and, in support of labor racketeering, punitive measures were broadened to change Taft-Hartley violations from a misdemeanor to a felony and following the date of sentence, a convicted union leader now must wait 13 years prior to holding or running for another union position.

### Forfeiture & Seized Property

- Three positions to address the increase in workload relating to new responsibilities in this area which: (1) increases the government's ability to seize property subject to forfeiture in RICO matters; (2) permits the civil forfeiture of real property used to facilitate the commission of controlled substances violations; and (3) permits the transfer of property to participating state and local police agencies.

Prior to the passage of this Act, the government could only seize property in RICO matters following completion of the forfeiture action. This resulted in the property being maintained for only a short period of time prior to sale. The government now has the ability to seize property for criminal forfeiture at the time of indictment which significantly increases our responsibilities in regard to the long-term management of these assets.

Prior to the passage of this Act, real property was only subject to civil forfeiture proceedings when it could be established that the property was purchased from the proceeds earned in the illegal narcotics operation. The new Act greatly expands the potential for the seizure of property by allowing the civil forfeiture of real property for facilitation of a violation of the Act. For example, marijuana-growing lands and other pieces of real property used to store controlled substances can be seized and forfeited civilly.

Prior to the passage of the Act, federally forfeited property could not be transferred directly to participating state and local police agencies. The Act establishes the Attorney General's authority to transfer this type of property directly to them, and policies and procedures have recently been approved for the establishment of this program. The coordination of the transfer program will require an extensive amount of time on behalf of the investigative agencies.

The resources requested for the Comprehensive Crime Control Act represent an estimate of what the FBI will require to begin to implement the many new provisions of the law. At this point, there is little historical data on which to base this estimate but we believe that the resources requested for 1985 and 1986 will enable us to initiate investigations in the areas outlined above.

QUESTION:

If the FY 1985 program supplemental request of \$1.5 million is not enacted until August of this year, how many of the 148 positions can be brought on board in FY 1985 and how much budget authority will be obligated?

ANSWER:

Should the FY 1985 program supplemental not be approved until August 1, 1985, it is projected that 132 of the 148 positions would be filled in FY 1985. Budget authority required for FY 1985 obligations would be approximately \$1 million or \$500,000 less than the amount contained in the pending request. It should be noted that the pending request would provide for 148 positions for one quarter of FY 1985.

QUESTION:

Does the FY 1985 program supplemental include funding for automobiles for the additional personnel and do the automobile procurement limitations in FY 1985 and FY 1986 in the appropriation language provide sufficient flexibility to procure the additional required vehicles?

ANSWER:

Yes, the annualization of the supplemental funding in FY 1986 provides sufficient budget authority to procure additional vehicles for the agents provided by the FY 1985 supplemental.

The FY 1985 and FY 1986 appropriation language provides flexibility in the number of vehicles which are allowed to be procured.

Specifically:

The FY 1985 appropriation language allows for 1,700 vehicles to be procured of which 1,550 are to be replacements and 150 are to be additions.

The proposed FY 1986 appropriation language allows for 1,600 vehicles to be procured of which 1,450 are to be replacements and 150 are to be additions.

These 150 additional vehicles per year would be commensurate with an increase of 210 special agents per year which approximates the increases resulting from the FY 1985 supplemental and our FY 1986 program enhancement.

QUESTION:

How many FBI vehicles are kept beyond the 60,000-mile replacement standard? How many are replaced earlier?

ANSWER:

During FY 1982 through 1984, approximately 736 vehicles per year or 11 percent of the vehicle fleet was retained annually even though the 60,000 mile replacement standard had been exceeded. Of the 1,200 vehicles disposed in FY 1984, 41 vehicles had accrued less than 60,000 miles.

QUESTION:

How many and what types of seized vehicles does the FBI maintain and how are these vehicles used? Could they be used to reduce the FBI vehicles requirements?

ANSWER:

The FBI's undercover fleet contains approximately 543 seized vehicles. The types of these vehicles range from motorcycles to Mercedes-Benz and include luxury cars as well as sports cars. These vehicles are used exclusively in undercover and surveillance operations by non-credential-carrying Special Agents.

These vehicles could not be used to reduce the FBI's general investigative fleet vehicles (GIVs) for the following reasons:

1. The high cost of operating these vehicles makes it ineffective to use these vehicles as GIVs.
2. The types of vehicles which are seized are usually not similar to the vehicles driven by the average Americans (as opposed to the GIVs.)
3. The quality and quantity of seized vehicles cannot be accurately predicted.

FY 1985 Pay Supplemental

QUESTION:

What are the total pay requirements associated with the January 1, 1985, 3.5 percent increase granted Federal employees?

ANSWER:

The FBI's total requirements for the January 1985 pay increase is \$17,639,000. In addition, \$250,000 is required for increased FICA (Social Security) costs, effective the same date. The FBI is being required to absorb \$2,619,000 of these costs and the pending supplemental request for increased pay costs is in the amount of \$15,270,000.

QUESTION:

In what areas are you absorbing these costs for FY 1985 and what impact will this absorption have upon your anticipated program level?

ANSWER:

The FBI will absorb \$2,619,000 of the January 1985 pay increase. The amount absorbed will reduce funds available to pay support employees overtime which is needed to reduce backlogs in typing and administrative functions in FBI field offices and at Headquarters. However, the absorption can be sustained with minimal adverse effect.

Washington Field OfficeQUESTION:

In FY 1984 \$10 million was appropriated for the relocation of the Washington Field Office. This funding was made available until the end of FY 1985. In the FY 1985 supplemental you are requesting extension of this funding availability with no time constraints. What has caused this delay in the relocation of the Washington Field Office and when do you plan to spend the money?

ANSWER:

The relocation of the Washington Field Office (WFO) has met with unfortunate administrative delays within the General Services Administration (GSA). The special requirements of the FBI to relocate into a highly developed area and into a building meeting special requirements have contributed to these delays.

In October, 1982, the FBI requested the GSA to locate suitable space for WFO. By September, 1983, GSA had advertised in local newspapers, completed a market survey, and worked with WFO to prepare special considerations to be included in the Solicitation for Offers (SFO). In November, 1983, the FBI received the appropriation and a draft SFO was prepared in March, 1984. In May, 1984, GSA advised the FBI that the only suitable location for WFO was at 1425 New York Avenue. The FBI approved that location and requested GSA to expedite its procurement. In July, 1984, GSA advised the FBI that because of the time delay since advertising for space and because only one location was available, it was necessary to readvertise for additional prospects. In August, 1984, GSA presented a list of available buildings and requested FBI comment on their acceptability. During this time GSA also requested an in-house legal opinion on whether or not a prospectus for the proposed lease was required. This legal confirmation was not received until January, 1985.

All prospective locations except for 1425 New York Avenue have been eliminated from consideration and on March 8, 1985, an SFO was submitted for 1425 New York Avenue. The developer of this building is expected to respond to the SFO within 30-60 days. It is currently anticipated that WFO will be able to complete its relocation by January, 1986.

FY 1986 RequestQuantico FacilitiesQUESTION:

In FY 1985 funding of \$9,982,000 was provided for the construction of a new engineering building at the Quantico Training Facility. This funding included co-location of the DEA engineering staff with the FBI staff. What is the status of this project and when do you expect completion of this building? Is the project on schedule?

ANSWER:

The FBI has contracted with the architectural firm Moseley, Henning, Associates, Incorporated, for the analysis and design of the Engineer-

ing Research Facility (ERF). The firm has completed a conceptual design of the facility which includes the artist's concept of the exterior as well as the layout of the individual rooms of the facility. Moseley, Henning has incorporated DEA's requirements into the plan for the facility. A contract for the construction of the ERF is scheduled to be let in mid-1986 with groundbreaking shortly thereafter and occupancy in mid-1988. Preparations for the construction of the ERF are progressing satisfactorily.

QUESTION:

In FY 1985 \$2.8 million was provided for site and utility upgrading in preparation for a new dormitory building and a new engineering building. Base funding of \$13.1 million in FY 1986 is available to proceed with construction of the new dormitory building. What is the need for this new dormitory? The Subcommittee understands the dormitory will be designed with single-occupancy rooms--why single instead of double occupancy?

ANSWER:

The construction of a third dormitory at the FBI Academy is deemed vital to the continuance of the Academy's ongoing programs and commitments. At present, with two existing dormitories, the FBI Academy has an optimum annual capacity of approximately 150,000 student training days. The Academy operated at 104 percent of capacity in FY 1984, with training days being equally allocated between FBI employees and general law enforcement training.

During 1984, excluding new agents training, 60 percent of the requests for FBI training could not be conducted due to lack of dormitory space at the FBI Academy; it is estimated that in FY 1985, 55 percent of the demand will not be satisfied. In order to accommodate part of the demand for in-service training during the past two years, 1,854 students were lodged in local motels and hotels.

In response to internal training and developmental needs, the Training Division has established strict criteria for the scheduling of non-FBI schools. Training sessions are presently limited to management and executive development programs and those scientific and technical schools which are not duplicative of local and state initiatives. The FBI Academy is meeting less than 33 percent of the demand for the National Academy program and approximately 13 percent of the demand for specialized and technical training for local law enforcement.

Almost without exception, the curriculum presented at the FBI Academy represents subject matter that requires unique resources and personnel which are not available elsewhere. Likewise, the use of motels and other training facilities is not considered a viable long-range training mode. The learning environment available at the FBI Academy, as well the security and unique resources it provides, makes it the ideal location for carrying out the FBI's mandate for continued training of its own personnel as well as our commitment to the general law enforcement community.

The proposed third dormitory can be fully justified on the basis of increased FBI training needs in the critical areas of foreign counter-intelligence, computer related training, white-collar crime, organized crime, drug matters, terrorism, supervisory, undercover, and new agents training.

In 1981, the Forensic Science Research and Training Center (FSRTC) became a permanent facility at the FBI Academy. It is unique in its efforts to support the Federal, state, and local law enforcement community and to further expand the capabilities of the forensic scientists. Full use of this facility with no increase in dormitory space, has created a shortage of space for other programs.

In addition to housing 250 students, the proposed dormitory will include facilities to meet the specific needs of the FBI's Intelligence Division. This dormitory will also accommodate conferences, seminars, retreats, and other related activities, which the FBI Academy is not presently equipped to handle.

While new agent hiring is expected to be at 300 and 350 new agents in FYs 1985 and 1986, respectively, indications are that even without a significant increase in staffing levels, new agent hires for future years can be expected to escalate due to an increased number of Special Agents who will reach retirement eligibility. The possibility of relocating all DEA training from the Federal Law Enforcement Training Center (FLETC), Glynnco, Georgia, to Quantico, further aggravates the dormitory crunch already being experienced. DEA's projected annual training need of 16,000 student days represents approximately 10 percent of the Academy's present student day lodging capacity. Specific cuts of priority training would have to be made or accommodated through additional off-site lodging, absent construction of a third dormitory.

The new dormitory has been designed with single occupancy rooms to enhance the learning environment of the long-term Academy student. This single room configuration will offer a needed alternative to the two existing dormitories which consist of double occupancy rooms. Double occupancy rooms were considered in the original planning of the new dormitory. However, supervisory and management courses offered at the Academy often require evening study and privacy not now available in the existing double occupancy dormitories. In addition, the 15-week New Agents Training Program includes ten major exams and the intensity of this program and its long-term nature are such that the new dormitory should be built to accommodate these special needs. It is noted that planning and construction for a building such as the new dormitory is a three-year cycle and to change from single to double occupancy rooms at this time would increase administrative costs associated with design, offsetting any economies realized from a double occupancy room configuration.

QUESTION:

Why wasn't the dormitory expansion included with the construction of the Forensic Science Research and Training Center in 1981?

ANSWER:

During the period that the Forensic Science Research and Training Center (FSRTC) was planned, designed, and constructed (1977-1981), the FBI Academy was not operating at maximum occupancy and it was anticipated that the students selected to attend specialized forensic courses could be accommodated within the Academy's maximum capacity of 700 students in residence at any one time. The FSRTC was dedicated in June 1981, with a maximum capacity to train 2,000 students per year. From June 1981, through FY 1983, the FSRTC

operated at approximately 75 percent of its training capacity; however, the Center operated at near maximum capacity during 1984, and it is anticipated that the Center will continue to train approximately 2,000 students per year during 1985 and for the foreseeable future. Maximum utilization of the FSRTC and the increased demand to address high priority FBI in-service training needs have combined to form a compelling need for additional dormitory space at the FBI Academy.

National Center for Analysis of Violent Crime

QUESTION:

The budget justifications indicate that \$1.7 million in base funding will be made available for continuation of the National Center for the Analysis of Violent Crime. What are the staffing and budgetary requirements for the Center and what service is provided by the Center?

ANSWER:

The National Center for the Analysis of Violent Crime (NCAVC) is a law enforcement oriented behavioral science and data processing center designed to consolidate research, training, and operational support functions for the purpose of providing expertise to law enforcement agencies confronted with unusual, vicious, or repetitive violent crimes.

Staff and annual budgetary requirements for the NCAVC are as follows:

Staff Requirements

NCAVC staff consists of 23 new positions.

10 Special Agents.....	\$530,000
13 Support.....	450,000
Subtotal.....	<u>980,000</u>

Non-personnel resource requirements.

Travel.....	450,000
Communications.....	135,000
Service contracts and consultants.....	<u>50,000</u>
Subtotal.....	<u>635,000</u>

Total..... \$1,615,000

The above staff cost does not include costs of Behavioral Science Unit members already in place who serve as NCAVC administrators, program managers, and support personnel on a less than full-time basis, and four, one-year fellowships extended to major law enforcement agencies.

NCAVC provides behavioral science analysis and interpretation of unsolved violent crimes, and furnishes profiles of unknown offenders, as well as consultation in case strategy. The Violent Criminal Apprehension Program (VI-CAP) links unsolved violent crimes to one another, identifies and charts patterns and trends, tracks offenders.

and furnishes results to law enforcement agencies who are affected. Research projects and training programs are designed to gain and disseminate information about offenders and their crimes.

QUESTION:

Since there is no increase in overall funding for this area, will other state and local assistance programs be reduced in order to fund the Center?

ANSWER:

The workyears and funding for the operation of the NCAVC during FYs 1984 and 1985 were made available from components of the Department of Justice, primarily the Office of Justice Programs. The Department of Justice has stated that the workyears will also be available to support the NCAVC for FY 1986. Funding for the operation of the NCAVC will come from the FBI's base level funding and will not require a reduction in other state and local assistance programs.

Organized Crime Program

QUESTION:

There has been recent news coverage of FBI success in its Organized Crime Program. Could you describe these recent successes and what impact these cases have had on organized crime in the United States? Are you satisfied with the available funding in this program to accomplish your objective?

ANSWER:

The FBI has established as the objective of the Organized Crime Program the reduction of the sphere of organized crime influence on the American public. We have determined that the organized crime group having the most influence and power in the United States is La Cosa Nostra (LCN) so we have focused our efforts against the hierarchy of that group. This was done in the belief that by taking LCN leaders "off the street", we could destroy the cohesive LCN structure and that the resulting disorganization would cause a substantial decrease in the power and sphere of influence of LCN.

The FBI has applied a similar investigative strategy to combat the influence of non-traditional organized crime groups, such as the major outlaw motorcycle gangs, ethnic groups and prison-spawned gangs, as well as major narcotics trafficking organizations (both LCN and non-LCN), high level smugglers, distributors, manufacturers, financiers, and corrupt public and law enforcement officials.

The FBI has achieved notable accomplishments which have had a significant impact upon the operation of organized criminal enterprises. The results of the FBI's efforts can be measured through the successful prosecution of the leadership of organized crime groups that affect the social and financial framework of American society. An additional measure of impact directly attributable to the FBI's sustained investigative efforts is reflected in the monetary return attained through recoveries, restitutions, and court-ordered forfeitures. During FY 1983, \$321,058,524 was obtained as a result of FBI investigations. In FY 1984, \$273,616,171 was obtained through investigative activity.



To demonstrate the effectiveness of the FBI's investigative strategy, the following accomplishments are of particular significance:

As a result of information gained from wiretaps in New York, New Jersey, Pennsylvania, Michigan, Illinois and Wisconsin, the FBI was able to identify and locate Gaetano Badalamenti, a notorious Sicilian Mafia narcotics trafficker and long-time fugitive from Italy.

Based on FBI, DEA, Brazilian, and Spanish law enforcement efforts, Badalamenti was arrested in April 1984 by Spanish authorities, together with his son, Vito, and his nephew, Pietro Alfano. This initiated the arrests and searches of residences and businesses in Illinois, Wisconsin, Michigan, Pennsylvania, New Jersey, New York, Italy, and Switzerland. As a result of this investigation, 39 individuals were indicted by a Federal grand jury in the Southern District of New York and 2 individuals were indicted in the Eastern District of Michigan.

Investigation of the money laundering aspect of this case disclosed that this group laundered more than \$54 million through banks in the Bahamas and Switzerland. Furthermore, a review of records obtained from E.F. Hutton and Merrill Lynch of New York disclosed a turnover of \$300 million in 1982 in the accounts of one Vito Palazzolo, one of the money launderers of this group.

On January 10, 1984, a Federal grand jury (FGJ) returned indictments on nine individuals and a corporation as a result of a lengthy investigation which began more than three years ago. The first indictment charges Trans-Sterling as a corporation, as well as four Trans-Sterling employees, all LCN associates, of conspiring to divert between \$2 and \$5.2 million from the Stardust Casino through a system of fraudulent entries in the Casino's recordkeeping system. Trans-Sterling Corporation is the parent corporation for the Stardust, Fremont and Sundance Hotel/Casinos in Las Vegas, Nevada. The defendants were also charged in the remaining 12 counts of the first indictment with related acts of mail fraud, fraud and racketeering (RICO). The other five individuals were charged with one count of criminal contempt for having refused to answer questions before the Special FGJ during this investigation. Included in this indictment is Philip Ponto, a Chicago LCN member.

On February 7, 1984, the entire hierarchy of the Kansas City LCN was indicted by a Special FGJ at Kansas City, Missouri. The RICO indictment uses four predicate violations as follows: The 1978 conspiracy to murder Carl Spero; LCN hidden interest in skimming from the Argent casinos; LCN hidden interest in skimming from the Tropicana Casino; and LCN skimming of the Kansas City bingo business. This indictment is particularly significant in that Anthony Civella, the acting "street boss" of the Kansas City LCN, had previously escaped Federal prosecution in Kansas City in the Tropicana and Argent cases. On September 4, 1984, subsequent to guilty pleas, Carl Civella received a 10 to 30 year sentence with a fine and Anthony Civella was sentenced to five years and a fine.

On April 9, 1984, Milwaukee LCN boss Frank Balistrieri and his two attorney sons, Joseph and John, were convicted of a Hobbs Act-Extortion violation. This case involved the life-threatening extortion of an FBI undercover agent (UCA) by Balistrieri. The special agent was introduced to Balistrieri as a vending machine

representative of Bonanno LCN members Lefty Ruggiero and Mike Sbella. The extortion was the Balistrieri's response to the UCA's attempts to intrude into the Milwaukee vending machine business without prior Balistrieri approval. On May 29, 1984, Frank Balistrieri was sentenced to 13 years and on July 30, 1984, Joseph and John Balistrieri each received eight-year prison sentences and fines.

On February 21, 1985, 82 members of the Bandidos Motorcycle Gang were arrested by 15 participating FBI field offices. During the ensuing searches incidental to the arrests, approximately 150 firearms were seized, along with various narcotics and related paraphernalia and drug distribution records. The arrests were the culmination of a nationwide effort targeting the drug distribution activities of the Bandidos Motorcycle Gang.

On February 25, 1985, a Federal grand jury meeting in the Southern District of New York indicted the top leadership of the five New York LCN families under the RICO statute for operating a criminal enterprise known as the LCN Commission. This RICO indictment was made up of predicate acts of Hobbs Act-Extortion, murder, and labor racketeering. The following individuals were indicted:

- Anthony Salerno-Boss-Genovese Family
- Paul Castellano-Boss-Gambino Family
- Aniello Dellacroce-Underboss-Gambino Family
- Gennaro Langella-Acting Boss-Colombo Family
- Ralph Scopo-Soldier-Colombo Family
- Anthony Corallo-Boss-Luchese Family
- Salvatore Santoro-Underboss-Luchese Family
- Christopher Furnari-Consigliere-Luchese Family
- Phil Rastelli-Boss-Bonanno Family

The funded level for the Organized Crime Program in FY 1986 is 1,568 Direct Agent Workyears (DAWYs). Of that number 1,000 DAWYs will be dedicated to organized crime-narcotics and the remainder will be allocated to traditional organized crime and labor racketeering investigations.

The 1,000 DAWYs utilized in targeting narcotics investigations will include the OCDE Task Force commitment of 362 DAWYs.

QUESTION:

What are you doing in the non-traditional organized crime groups, such as the Colombian organizations in Miami and elsewhere?

ANSWER:

Since acquiring concurrent jurisdiction with DEA over Title 21, U.S.C. violations, the FBI has been developing a substantial data base consisting of intelligence and substantive case information regarding numerous ethnic groups involved not only in narcotics trafficking, but also in what is considered more traditional organized criminal activity. Given our limited resources, we have concentrated those resources against traditional Organized Crime (OC) groups [La Cosa Nostra, (LCN)] and certain non-traditional OC groups, which research has shown are engaged in extensive organized criminal activity commonly associated with the criminal endeavors of LCN "families;" e.g., Sicilian Mafia, Outlaw Motorcycle Gangs, Prison-Spawned Gangs, and

Oriental Organized Crime groups. Investigation of these various forms of organized criminal enterprises by the FBI have documented the fact that they are structured and well organized criminal entities suitable for investigative treatment similar in manner to that utilized by the FBI to address LCN. As a consequence, sub-programs within our Organized Crime Program have been developed to focus efforts to combat these organizations; these sub-programs continue to gain momentum and successful inroads are being made.

Meanwhile, the FBI has also been engaged, in connection with its narcotics enforcement efforts, in innumerable substantive investigations in which still other criminal groups have been determined to exert significant organized crime, ethnic-based influences on our society and which, most certainly, have a substantial impact on the drug abuse problem. These groups include, most importantly, the Mexican Heroin and Marijuana Trafficking Organizations and the Colombian Drug Trafficking Organizations/Cartels. Other ethnic-based groups involved in drug smuggling into the United States include Peruvian, Nigerian, Nepalese, Indian, Pakistani, and Lebanese groups.

With regard to the Mexican and Colombian crime organizations, the FBI, aside from conducting numerous substantive investigations, is also gathering extensive intelligence data concerning the drug trafficking and other criminal activities of those groups in order to be able to make informed judgments as to whether those organizations should also be addressed as distinct sub-programs within the Bureau's Organized Crime Program. These studies are being closely coordinated with DEA. If definitive information is developed which shows that the Mexican and Colombian drug groups are, in fact, structured enterprises and are engaged in a variety of criminal activities, new sub-programs will be initiated by the Organized Crime Section to focus additional resources against those groups.

#### Field Office Information Management System

##### QUESTION:

Substantial increased funding has been provided in recent years for automation of field offices under the project known as Field Office Information Management System (FOIMS). FOIMS "baseline functional support" was to be provided to all 59 field offices by the end of 1985. What is the status of this effort?

##### ANSWER:

Baseline FOIMS capabilities, which are case management, automated indices, personnel management, vehicle management and time capture, will be available to all field offices and major resident agencies by the end of FY 1986 under the accelerated FOIMS implementation plan. The FOIMS Northeast Regional Computer Support Center (RCSC) at Ft. Monmouth, New Jersey, is fully operational and supports accelerated FOIMS in the Boston, Philadelphia, Newark, and New Haven field offices as well as the New York and Richmond prototype offices. Ft. Monmouth also has a regional word processing center which supported New York and 18 other FBI offices last year.

The FBI has acquired a site for the Western RCSC at Pocatello, Idaho. A temporary data center with one mainframe computer is scheduled to be operational in June 1985. This temporary data center will provide

a test bed for interregional data and file transfer, interlinking regional networks, interregional backup and recovery, as well as support the Los Angeles and San Francisco field offices. Construction of the permanent data center at the Western RCSC will begin in May 1985. The Western RCSC has a word processing center which is currently supporting the twelve western regional offices and other offices as directed.

Full implementation of the FOIMS project is projected for 1989. To meet the field's interim needs for information processing of investigative data, stand-alone microcomputers are being provided to the field. These microcomputers will be tied into the FOIMS network and will have full FOIMS capabilities when FOIMS is fully implemented.

#### Voice Privacy

##### QUESTION:

In FY 1985 there is funding of \$32.4 million for Voice Privacy, which \$16.4 million is being nonrecurred in FY 1986. What is the status of this initiative? Has the FBI replaced its radio communications in all field offices to provide voice privacy for all radio uses?

##### ANSWER:

Installation of a complete radio voice privacy system for the Los Angeles Division has been completed and basic voice privacy equipment has been provided to 23 field offices to support surveillance activities. Installation of complete voice privacy systems for the New York, Chicago, Boston, Miami, and Washington field divisions is underway and should be completed in the summer of 1985. Equipment has been procured and final systems designs are underway for the following 17 divisions: Detroit, Cleveland, Las Vegas, Baltimore, Philadelphia, Newark, Pittsburgh, Kansas City, San Francisco, St. Louis, New Haven, San Juan, Albany, Buffalo, Atlanta, Dallas, and Houston field divisions. Procurement for voice privacy equipment for as many as 13 additional field divisions is planned for 1985.

##### QUESTION:

What is the total cost of this project and will base funding satisfy the remaining requirements? When will this initiative be completed?

##### ANSWER:

The total cost of the voice privacy initiative is projected at \$204.4 million. The FBI will be requesting enhancement funding in FY 1987 and FY 1988 for this project. The voice privacy initiative is expected to be completed in 1988 from a procurement standpoint, with complete systems installation occurring in 1990.

#### National Crime Information Center

##### QUESTION:

In FY 1985 \$2 million was provided for redesign of the National Crime Information Center (NCIC), and this \$2 million is being nonrecurred in FY 1986. What is the status of this project and when will it be completed?

ANSWER:

The FBI expects to award a contract this year for the first phase of the redesign of the NCIC. This systems design effort will define the NCIC's functional requirements through the year 2000 and trace these to their legal bases, employ rapid prototyping to insure the correct requirements have been defined, and present alternative proposals for the design of the NCIC. The \$2 million will be fully expended for this phase one effort. It is projected that phase one will be completed in early 1987, with the total software engineering effort completed 18-24 months thereafter.

QUESTION:

There was a recent newspaper article which described FBI plans to expand its NCIC files to include white-collar crime investigative data. What type of data will be included in this expansion, who will have access to the data, and what safeguards will be implemented to insure against unauthorized use?

ANSWER:

The Economic Crime Index (ECI) was originally proposed by the Economic Crime Council which was established by the Attorney General to coordinate Federal efforts in combating white-collar crime. This proposal to expand the NCIC System will include records for individuals under investigation for financial crimes as defined in the Manual of Investigative Operations and Guidelines, Fraud By Wire (196 A, B, C, and D) and Interstate Transportation of Stolen Property - Securities (87 D and E). These matters fall primarily under FBI jurisdiction in violations of the Fraud By Wire Statute 18 U.S.C. 1343 and Interstate Transportation of Stolen Property Statute 18 U.S.C. 2314. These records will include names, aliases, phone numbers, descriptive data, miscellaneous data, and vehicle data of individuals under investigation.

Initially, access to the ECI will be limited to the FBI field offices that have direct lines, currently totaling 11 offices. Following this phase, the file would be opened up to all FBI field offices and the Department of Justice. After the test phase, consideration will be given to making the file available to the headquarters offices of selected Federal law enforcement agencies and eventually to all NCIC users.

The only way to access the ECI will be by making an entry. When an entry is made, the FBI Criminal Investigative Division (CID) will be notified of the transaction. Upon acceptance of the entry, the NCIC computer will furnish the entering agency with any matching records entered by other agencies. There will be no formal inquiry capability of this file which should eliminate the possibility of perusing the file. Since the CID will see all entries and there will be no inquiry capability, there should be no unauthorized or inappropriate use of the data. Additionally, access to the NCIC System is restricted to authorized criminal justice agencies which is controlled by assigned code numbers and computer edits.

A proposal to establish this file is pending review by the FBI Director.

ADP BudgetQUESTION:

Your budget justifications in the ADP area show no planned increases in staff. Assuming you are still planning to establish a third and possibly a fourth regional data center in the 1985 - 1986 time frame, how do you plan to staff these new centers?

ANSWER:

In the FY 1985 budget, the FBI requested and received an increase of two special agents and 40 support workyears to staff the Western Regional Computer Support Center (RCSC).

A study was done by the Office of Program Evaluations and Audits (OPEA) which determined that the required staffing level for each RCSC, not including word processing or data entry personnel, is 64 support and three special agent workyears. In addition to base level personnel resources, the FBI will require increased workyears to staff the regional computer centers. Each center will require an additional 24 support and one special agent workyears for the Northeast RCSC, an increase of 24 support and one special agent workyears was requested for the Western RCSC, and eight support and two special agent workyears for the Mid-Atlantic Regional Computer Support Center. Also to support FOIMS and other automation initiatives an increase of 30 support workyears is needed for computer assistants in the field offices. Industry statistics show that this type of position historically resolves 85 percent of user problems including applications, operations, and procedures.

The FBI plans to submit personnel requests related to FOIMS in its FY 1987 budget request.

QUESTION:

With the implementation of FOIMS as envisioned with distributed data bases and distributed data process, will the need for a Headquarters index file, except for those cases initiated by Headquarters, be eliminated?

ANSWER:

The need for a FBI Headquarters (FBIHQ) index file will continue. The more active historical records are being converted to automated form to support the National Name Search Program; the remaining manual indices are required to support applicant checks and Freedom of Information Act (FOIA) requests as well as name search requests. It should be noted that approximately 5,000 name checks are made each day for national security purposes.

FOIMS will provide the potential to eliminate 65 percent of the current indexing workload. Each investigative matter will be managed by the field office originating the investigation. The originating office will be responsible for creating and maintaining the automated indices for that case. All auxiliary offices and FBIHQ will then access these indices via a secure telecommunications network and distributed data architecture and will not have to create duplicate/redundant indices.

A quantitative analysis will be conducted to determine if portions or all of the field offices indices will be maintained on-line at FBIHQ to support operational requirements.

QUESTION:

I understand that your current plans are to maintain all FBI automated criminal files on an on-line system for immediate access by FBI Agents and support personnel. This requirement would appear to have significant cost implications. What alternatives have been considered to an on-line system? What is the long-term cost impact? What trade-offs will the Bureau make if historical data is moved to an off-line system?

ANSWER:

FOIMS is the cornerstone of the FBI's automation strategy. It will provide horizontal integration of the FBI's investigative and administrative functions across the field divisions and vertical integration of management and decision-making functions at FBI Headquarters. A pilot FOIMS application was implemented in the Richmond Field Office and preliminary cost/benefits were encouraging. This preliminary effort demonstrated that the current manual indexing processes involve 65 percent redundancy.

The FBI has recently contracted with the Institute for Defense Analysis (IDA) to perform an in-depth cost benefit analyses of FOIMS. IDA will determine costs, benefits, measures of effectiveness, as well as the impact of automation on the FBI. Included in this analysis will be the costs of maintaining criminal files on an on-line basis and the benefits realized such as eliminating multiple file redundancy throughout the FBI. The most important result of this effort will be the determination of increased investigative effectiveness as a result of FOIMS.

Current plans do not call for the full conversion of historical data to automated form. The FBI has already conducted a study and determined that the value of indices diminishes with time.

QUESTION:

Comparison of the budget justifications for FYs 1985 and 1986 shows a significant revision in your acquisition plans. The justifications for FY 1985 show a total cost of \$224 million for FY 1985 and 1986 for ADP and telecommunications equipment. The FY 1986 budget justifications for the same two fiscal years show a figure of \$259 million for ADP and telecommunications acquisitions. What are the reasons for this \$35 million increase?

ANSWER:

The FBI's Automated Data Processing and Telecommunications (ADPT) Program is funded for \$130,222,000 in FY 1985. The FY 1986 budget request for ADPT is \$137,597,000.

The FY 1984 budget included \$35,000,000 in two-year funding for the Automated Identification Division System (AIDS). This acquisition was deferred and the contract was awarded in January, 1985.





TUESDAY, APRIL 2, 1985.

**IMMIGRATION AND NATURALIZATION SERVICE**

**WITNESSES**

**ALAN C. NELSON, COMMISSIONER**  
**THOMAS C. FERGUSON, DEPUTY COMMISSIONER**  
**DORIS M. MEISSNER, EXECUTIVE ASSOCIATE COMMISSIONER**  
**MALCOLM E. ARNOLD, COMPTROLLER**  
**THOMAS N. PERRELLI, DIRECTOR, PROGRAM PLANNING AND BUDGET STAFF**  
**RAY KISOR, ASSOCIATE COMMISSIONER FOR ENFORCEMENT**  
**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL, FOR ADMINISTRATION**  
**CHARLES R. NEILL, CONTROLLER**  
**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

**INS BUDGET REQUEST**

**Mr. EARLY.** The Committee will come to order.

This afternoon we shall consider the fiscal year 1986 budget request for the Immigration and Naturalization Service.

The fiscal year 1986 request is for \$577,510,000. This amount represents a reduction of \$7,521,000 from the amount appropriated to date for fiscal year 1985. We shall also consider today a fiscal year 1985 program supplemental request for a change in appropriation language.

We shall insert the justification material in support of both of these requests in the record at this point.

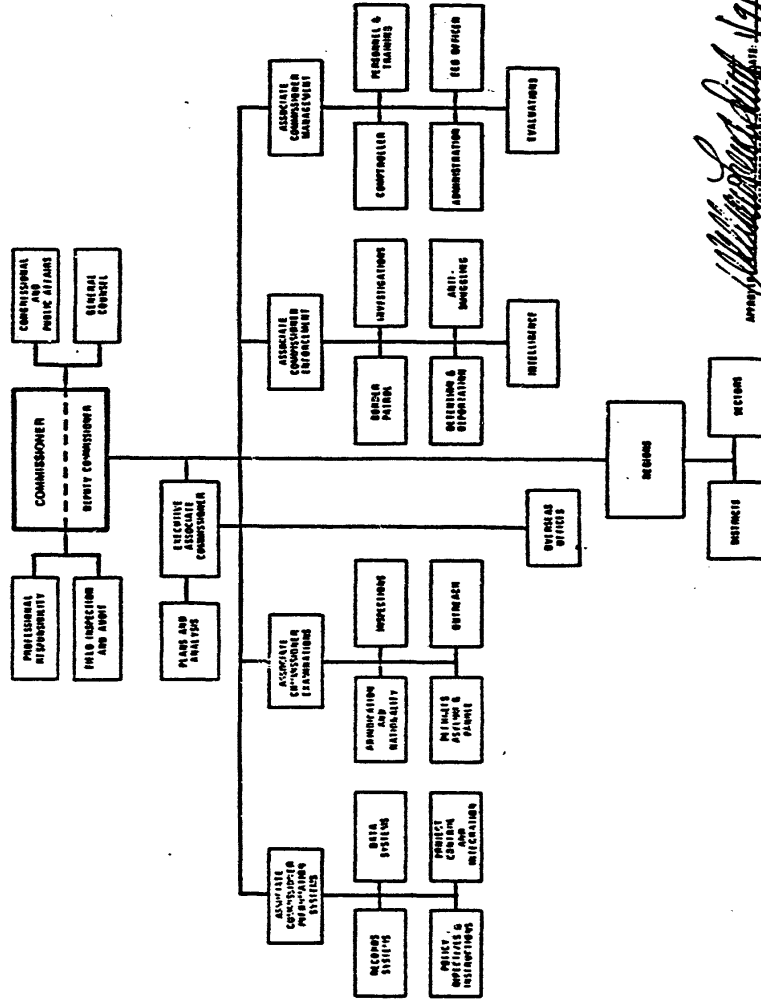
[The justifications follow:]

Department of Justice  
Immigration and Naturalization Service  
Estimates for Fiscal Year 1986  
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APPROVED: William L. Smith DATE: 1/9/84  
ATTORNEY AT LAW



Immigration and Naturalization ServiceSalaries and expensesSummary StatementFiscal Year 1986

The Immigration and Naturalization Service (INS) is requesting \$577,610,000, 11,599 permanent positions and 11,708 FTE work-years. In relation to the 1985 appropriation anticipated this is a reduction of \$7,521,000, 50 permanent positions, and a net increase of 193 FTE work-years resulting from a combination of a restoration of FTE work-years associated with a one-time reprogramming in 1985, annualization of 1985 increases and Grace Commission reductions.

The mission of INS is to facilitate entry of individuals legally admissible to the United States and to grant benefits to which these people are entitled; to prevent improper entry and the granting of benefits to those not legally entitled to them; to apprehend and remove those aliens who enter illegally and whose stay is not in the public interest; and to enforce sanctions against those who act or conspire to subvert the requirements for selective and controlled entry. Specifically, it is the responsibility of the Service to determine, in a timely and consistent manner, the admissibility of persons seeking entry into the United States and to adjust the status of and provide benefits to legally entitled aliens within the country with proper regard for equity and due process. This responsibility includes assistance to those who seek permanent resident status and those who wish to become citizens through naturalization. Further, it is the responsibility of the Service to ensure appropriate documentation of aliens at entry, to deny entry to those not legally admissible, whether they attempt to enter through ports of entry or surreptitiously cross our borders, and to control the status of aliens in the country. Finally, the Service has the responsibility to detect, apprehend and remove those aliens whose entry was illegal, whether undocumented or fraudulent, and those found to have violated the conditions of their stay within the country.

The 1986 budget request reflects a current services budget with several adjustments. Consistent with the Administration's policies, savings are anticipated to result from the implementation of several management initiatives. These include both implementation of the Grace Commission recommendations and a proposed five percent reduction in Federal salaries and benefits resulting in a downward adjustment of \$14,030,000. In 1985 INS' budget was reduced by \$4,800,000, 150 positions and 150 FTE work-years as the first phase of implementing the Grace Commission recommendations and in 1986 the second phase of implementation of the Grace Commission calls for a reduction of \$1,600,000, 50 positions and 50 FTE work-years which will be achieved through a realignment of the roles and responsibilities of personnel in the Central and Regional offices.

The Immigration and Naturalization Service contains four budget activities, which incorporate seventeen programs. Summaries of the major initiatives and resource requests for these activities and programs follow.

### Enforcement

This budget activity contains the resources dedicated to both preventing illegal entry to the United States and facilitating the entry of qualified persons. This includes inspection of applicants for admission, patrol of the border, and the apprehension of undocumented aliens who are in the United States subsequent to illegal entry or are in violation of status after legal entry.

Inspections examines each person seeking admission to the United States to determine admissibility. The requested program decrease in appropriated funds reflects an anticipated increase in reimbursements from carriers resulting from changes in regulations that INS is currently pursuing regarding aircraft carrier payments of INS inspectional overtime at certain airports.

Border Patrol prevents illegal entry, and detects and apprehends aliens smuggled into the United States. The Border Patrol's operational responsibilities extend to the immediate and surrounding areas of our borders.

Investigations conducts area control principally at employment sites, and investigates cases referred by other components of INS.

Anti-Smuggling curtails the growth of the undocumented alien population by locating and apprehending alien smugglers, with emphasis on organized alien smuggling operators.

Detention and Deportation detains deportable aliens whose freedom represents a danger to public safety or whose lack of funds or permanent address indicates that they are likely to abscond. This program also expeditiously processes and removes aliens from the United States as necessary.

### Citizenship and Benefits

The resources necessary to provide the benefits of the Immigration and Nationality Act are provided in this activity. Included are the adjudication of applications and petitions submitted for benefits, and the processing of naturalization and citizenship petitions and applications.

Adjudications and Naturalization adjudicates applications and petitions for benefits provided by the Immigration and Nationality Act and processes aliens eligible for citizenship.

Refugees and Overseas renders decisions on refugee applications.

#### Immigration Support

This activity includes the resources for construction, communications, records management, automated data processing, training of personnel, research and development, field management, legal proceedings and the alien documentation program (ADIT). In addition, it provides a capability to scientifically examine and analyze documents to assist in the identification, investigation and prosecution of criminals who provide fraudulent documents to smuggled aliens.

Training provides the systematic development of all key occupational skills necessary for the effective enforcement and administration of INS programs which includes all basic officer training at the Federal Law Enforcement Training Center (FLETC) at Glynnco, Georgia.

Data and Communications Systems improves INS' effectiveness and efficiency through the use of computers and associated data communications to process information and also provides electronics and communications support to INS' operating elements.

Information & Records Management provides timely and accurate information to the public, INS, and other enforcement agencies concerning INS plans and activities.

Intelligence provides predictive, tactical and strategic intelligence to INS' policy officials and line managers. Research and Development examines the technical problems which tend to impede the accomplishment of INS' mission and develops technological solutions to these problems.

Construction and Engineering maintains and improves INS' physical plant by designing and constructing new facilities and implementing energy conservation programs.

Field Management & Support provides day-to-day management direction to field units that implement major policy and management decisions made by INS management.

Legal Proceedings represents the Federal Government in all cases, matters and administrative hearings in which INS is involved, and provides legal advice and support to INS' operating personnel and managers.

#### Program Direction

This activity provides resources for the overall administration and management of the Service.

Executive Direction and Control establishes and maintains policy and program direction for INS. The requested program decrease reflects the Administration's initiative to reduce the costs of management and administration functions throughout the Government.

Administrative Services provides administrative support to INS operations. The requested program decrease reflects the Administration's initiative to reduce the costs of management and administration functions throughout the Government.

Immigration and Naturalization ServiceSalaries and expensesProposed Authorization Language

The Immigration and Naturalization Service is requesting the following authorization language:

Annual Authorization Proposal:

For the Immigration and Naturalization Service \$577,510,000, including--

Permanent Authorization Proposal:

The Immigration and Naturalization Service is authorized to make payments from its appropriation for.

- (A) interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without costs to such aliens;
- (B) allowances, (at such rate as may be specified from time to time in the appropriation act), to aliens while held in custody under the immigration laws, for work performed;
- (C) expenses to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for on the certificate of the Attorney General or the Deputy Attorney General;
- (D) expenses related to the purchase and/or lease of privately owned horses;
- (E) advance of cash to aliens for meals and lodging while enroute;
- (F) expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;
- (G) payment of rewards and purchases of evidence and payments for information;
- (H) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles;
- (I) acquisition, lease, maintenance, and operation of aircraft;

- (J) purchase of firearms and ammunition and attendance at firearms matches;
- (K) planning, acquisition of sites and construction of new facilities and construction, operation, maintenance, remodeling and repair of buildings and the purchase of equipment incident thereto, subject to the limitations of 8 U.S.C. 1252 (c) and 18 U.S.C. 4003;
- (L) refunds of maintenance bills, immigration fines and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;
- (M) acquisition of land as sites for enforcement fences, and construction incident to such fences;
- (N) research related to immigration enforcement;
- (O) the emergency replacement of aircraft upon the certificate of the Attorney General;
- (P) the purchase of uniforms without regard to the general purchase price limitation for the current fiscal year.



Immigration and Naturalization Service

Salaries and expenses

Justification of Proposed Changes in Authorization Language

The Immigration and Naturalization Service is requesting the following new language to be added to its authorization in 1986.

(P) the purchase of uniforms without regard to the general purchase price limitation for the current fiscal year.

This language would provide for payments of the purchase and maintenance of a prescribed uniform for slightly over 5,000 uniformed personnel of the Immigration and Naturalization Service. The uniformed employees of INS include Border Patrol Agents, Detention Officers, Contact Representatives and Immigration Inspectors. The requested language change will mitigate the inequitable financial burdens placed upon INS uniformed personnel.

Immigration and Naturalization Service

Salaries and expenses

Justification of Proposed Changes in Appropriation Language

The 1986 budget estimates include proposed changes in appropriation language listed and explained below. New language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed \$50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed [six hundred eight, of which four hundred sixteen] shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; [576,417,000] of which not to exceed \$400,000 for research shall remain available until expended: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of \$20,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement.

(8 U.S.C. 1103, 1252, 1551; Department of Justice and Related Agencies Appropriation Act, 1985; additional authorizing legislation to be proposed.)

Including payment of allowances (at a rate not in excess of \$4 per diem) to aliens for work performed while held in custody under the immigration laws,

four hundred ninety, of which four hundred ninety

\$577,510,000

Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

Explanation of changes:

1. The first change increases the amount which may be paid to aliens who do work for the Service while held in INS detention facilities. 8 U.S.C. 1555 requires that the rate of payment of allowances be specified from time to time in the Appropriation Act. The present rate of reimbursement, \$1.00 per day, has been in effect since 1948 and is too low to encourage aliens to volunteer for work in and around the detention facilities. It is significantly less costly to the Federal Government to have such work performed by aliens rather than by other means.
2. The second change is required to allow for the anticipated replacement of 490 passenger motor vehicles.
3. The third change provides for the purchase and maintenance of a prescribed uniform for each uniformed employee of the Service.

Immigration and Naturalization Service

Salaries and expenses

Excess with 1985 Changes  
(dollars in thousands)

Activity/Program	1985 President's Budget Request			Congressional Appropriation Actions on 1985 Request			Appropriations			1985 Pay Supplemental Requested		1985 Proposed	1985 Appropriation	
	POS.	NY	ASL.	POS.	NY	ASL.	POS.	NY	ASL.	POS.	ASL.	POS.	POS.	ASL.
1. Enforcement														
Inspection.....	1,452	1,794	574,857	60	51,550					51,257		-537	1,432	1,844
Border patrol.....	3,717	3,652	160,056		-577					3,043		-76	3,707	3,468
Investigations.....	1,022	790	42,308		-482					836		-43	1,022	790
Anti-smuggling.....	316	297	14,422	14	842					273		-36	332	308
Detention and Deportation.....	1,152	1,722	21,533	44	-788					848		-613	1,152	1,189
Subtotal.....										8,388			7,746	76,094
2. Citizenship and Benefits														
Adjudication and Naturalization.....	1,186	1,147	42,194	76	2,198					1,021		-92	1,244	1,204
Refugees and Overseas.....	68	112	8,272	44	2,196					1,077		-76	1,312	1,119
Subtotal.....													6,488	61,776
3. Immigration Support														
Training.....	61	61	6,503		-8					60		-9	61	61
Data and communications	197	189	49,009		-21					182		-49	197	189
Information and records	1,121	1,214	36,918		-691					982		-29	1,121	1,214
Intelligence.....	31	27	1,421		-4					26		-13	31	27
Research and development.....	2	2	6,021		-180					2		-4	2	2
Construction and engineering	17	18	6,021		-180					14		-3	17	19
Field management and support	302	284	13,461		-119					247		-37	302	284
Legal proceedings.....	211	198	10,708		-81					188		-71	211	198
Subtotal.....										1,888			2,004	1,999
4. Program Direction														
Executive direction and control.....	174	123	8,820		-54					143		-146	174	123
Administrative services.....	414	421	32,154		-208					138		-146	414	421
Subtotal.....													174	173
Total.....	11,473	11,576	574,539	176	1,878					9,561		-947	11,449	11,515

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Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Actions

The Congress eliminated \$4,122,000 for rental payments (SLUC) to GSA for space and services. It provided an additional \$6,000,000 and 176 positions in the following activities: Inspections, 80 positions; Anti-Smuggling, 14 positions; Adjudications and Naturalization, 76 positions; and 6 positions for Legal Proceedings.

Reprogrammings

This is a one-time transfer of funds necessary to finance construction projects for the Border Patrol. This adjustment will allow INS to construct Border Patrol facilities without requesting supplementary resources. During the 1985 appropriation hearings, INS informed Congress about our need to reprogram anticipated salary cost savings from new positions to construct facilities to support the 1985 border enforcement initiative. The salary cost savings in 1985 are expected to result from the time required to recruit, hire and train new agents; the savings are only anticipated in 1985. A supplemental language change allowing the reprogrammed construction funds to remain available on a no-year basis is being transmitted along with the President's budget.

Supplemental Pay Request

The request reflects \$9,561,000 to meet increased pay requirements for 1985 as a result of the pay raise (Executive Order 12496, of December 28, 1984).

Proposed Rescission

In accordance with Section 2901 of the Deficit Reduction Act, \$777,000 is proposed for rescissions in travel and transportation, \$100,000 in printing, and \$70,000 in Public Affairs.

## Immigration and Naturalization Service

## Salaries and Expenses

Summary of Requirements  
(dollars in thousands)

	1984 Actual		1985 Appropriation		1985 Estimate		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	MT Amount	Perm. Pos.	MT Amount	Perm. Pos.	MT Amount	Perm. Pos.	MT Amount	Perm. Pos.	MT Amount	Perm. Pos.	MT Amount
<b>Adjustments to base:</b>												
1985 as enacted.....												
1985 Pay supplemental requested.....												
1985 Reprogramming.....												
Proposed rescission.....												
1985 appropriation anticipated.....												
Savings resulting from management initiatives:												
Grace Commission Reduction.....												
Five Percent Pay Reduction.....												
Uncontrollable increases.....												
1986 base.....												
Estimates by budget activity:												
1. Enforcement.....	6,627	6,694 \$307,772	7,745	7,599 \$365,693	7,740	7,811 \$373,766	7,740	7,811 \$368,766	...	...	...	...
2. Citizenship and Benefits.....	1,238	1,313 46,692	1,312	1,323 51,770	1,306	1,336 51,528	1,306	1,336 51,528	...	...	...	...
3. Immigration Support.....	2,032	1,937 116,220	2,004	1,999 133,377	1,983	1,985 126,141	1,983	1,985 126,141	...	...	...	...
4. Program Direction.....	654	714 37,133	568	594 33,991	570	576 33,851	570	576 32,076	...	...	...	...
5. Reception, Processing and Care.....	...	...	...	...	...	...	...	...	...	...	...	...
Total.....	10,601	10,698 \$607,444	11,649	11,515 \$685,031	11,599	11,708 \$684,286	11,599	11,708 \$677,510	...	...	...	...

Immigration and Naturalization Service  
Salaries and Benefits  
Summary of Budget (All by Program)  
(Authority: 10 USC 2651)

Activities by Program	1964 as Enacted		1964 Actual		1966 Appropriation		1966 Estimate		1966 Estimate		1966 Estimate	
	Pay.	U.S.	Pay.	U.S.	Pay.	U.S.	Pay.	U.S.	Pay.	U.S.	Pay.	U.S.
<b>Enforcement:</b>												
Border patrol.....	1,455	1,737	149,300	1,455	1,733	149,577	1,438	1,684	177,327	1,431	1,673	172,917
Investigation.....	1,455	1,737	149,300	1,455	1,733	149,577	1,438	1,684	177,327	1,431	1,673	172,917
Anti-smuggling.....	1,455	1,737	149,300	1,455	1,733	149,577	1,438	1,684	177,327	1,431	1,673	172,917
Detection and deportation.....	1,455	1,737	149,300	1,455	1,733	149,577	1,438	1,684	177,327	1,431	1,673	172,917
Bureau.....	1,455	1,737	149,300	1,455	1,733	149,577	1,438	1,684	177,327	1,431	1,673	172,917
<b>Citizenship and Naturalization:</b>												
Admissions and naturalization.....	1,170	1,149	41,176	1,170	1,149	41,300	1,244	1,404	46,210	1,240	1,219	44,974
Admissions and naturalization.....	1,170	1,149	41,176	1,170	1,149	41,300	1,244	1,404	46,210	1,240	1,219	44,974
Admissions and naturalization.....	1,170	1,149	41,176	1,170	1,149	41,300	1,244	1,404	46,210	1,240	1,219	44,974
Admissions and naturalization.....	1,170	1,149	41,176	1,170	1,149	41,300	1,244	1,404	46,210	1,240	1,219	44,974
<b>Immigration Support:</b>												
Training.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
Information and records management.....	1,213	1,213	34,500	1,213	1,213	34,500	1,213	1,213	34,500	1,213	1,213	34,500
Intelligence.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
Research and development.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
Construction and engineering.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
Field management and support.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
Labor management.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
Labor management.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
Labor management.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
Labor management.....	40	40	5,707	40	40	5,707	40	40	5,707	40	40	5,707
<b>Program Direction:</b>												
Executive direction and control.....	111	111	10,411	111	111	10,411	111	111	10,411	111	111	10,411
Administrative services.....	111	111	10,411	111	111	10,411	111	111	10,411	111	111	10,411
Subtotal.....	111	111	10,411	111	111	10,411	111	111	10,411	111	111	10,411
<b>Reception, Processing and Care.....</b>												
<b>Total.....</b>	10,401	10,710	510,538	10,401	10,650	507,444	11,449	11,515	545,031	11,599	11,708	577,510
<b>Unemployment benefits.....</b>												
<b>Total FTE Ceiling.....</b>	10,711				10,410					11,709		
<b>Other workers:</b>												
Military.....	1,708				1,708					1,804		
Contractor.....	670				670					670		
Other.....	17,883				17,883					17,883		
<b>Total comparable workers.....</b>												

Immigration and Naturalization Service

Salaries and expenses

Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity: Enforcement	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated											
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount
Inspections.....	1,532	1,854	\$77,327	1,531	1,873	\$77,917	1,531	1,873	1,873	\$72,917	...	...
Border patrol.....	3,707	3,458	154,650	3,706	3,651	160,529	3,706	3,651	3,651	160,529	...	...
Investigation.....	1,022	790	42,821	1,021	789	42,579	1,021	789	789	42,579	...	...
Anti-smuggling.....	332	308	15,201	331	310	15,030	331	310	310	15,030	...	...
Detention and deportation.....	1,152	1,189	76,094	1,151	1,188	77,711	1,151	1,188	1,188	77,711	...	...
Total.....	7,745	7,599	355,893	7,740	7,811	373,766	7,740	7,811	7,811	358,766	...	...

This budget activity contains most of the resources dedicated to both preventing illegal entry into the United States and facilitating the entry of qualified persons. This includes inspection of applicants for admission, patrol of the border, and the location of undocumented aliens who are in the United States following illegal entry or in violation of status after legal entry. Apprehensions are made through the inspection of farms and ranches, by the investigation of information about the local undocumented aliens and through investigative case work. Also included are the resources for the Service's nationwide Anti-smuggling program, and for the detention and deportation of undocumented aliens.

Inspections.....	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated											
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount
Inspections.....	1,532	1,854	\$77,327	1,531	1,873	\$77,917	1,531	1,873	1,873	\$72,917	...	...

Long-Range Goal: Ensure that the entry of applicants for admission to the United States is controlled in a manner which is consistent with the National interest, facilitate the entry of qualified applicants, and identify and deny the admission

of those not qualified; provide support to the Adjudications program by approving or denying applications and petitions for benefits which are sent to ports of entry for adjudication during standby time; and issue Border Crossing Cards at the ports of entry.

Major Objectives:

Inspect (in cooperation with other Federal agencies) all applicants for admission to the United States.

Facilitate the entry of qualified persons through ports of entry.

Prevent the entry of inadmissible applicants through ports of entry.

Detect fraudulent documents representing false claims to U.S. citizenship or permanent residence and seize conveyances used for illegal entry.

Adjudicate applications and petitions at ports of entry in order to efficiently use inspector standby time.

Base Program Description: Applicants for admission to the United States are inspected at ports of entry to determine if they are qualified for admission and if so, under what conditions. This process is coordinated with the Department of State, U.S. Customs Service, Department of Agriculture and local port authorities.

Cross-designated inspectors are utilized at both land borders and select air ports of entry under the dual inspection concept whereby the officers of each agency conduct the primary inspection required by all agencies. "Citizen By Pass," "One-Stop" inspection and foreign pre-clearance inspections have been developed in cooperation with the U.S. Customs Service and the Animal and Plant Health Inspection Service to facilitate entry for the traveling public and better use of inspection resources at air ports of entry.

Determinations of inadmissibility are based on examination of the applicant, relative documents or prior information. Local and national lookout systems containing information relating to excludable aliens are available for use at each port of entry. Required documentation is examined to determine validity and relationship to the applicant. Inadmissible aliens are denied entry into the United States. Any criminal activity discovered in the inspection process is referred for appropriate investigation.

Applications and petitions for a full range of benefits under the Immigration law are adjudicated during periods of standby time at most ports of entry during non-peak workload hours.

Applications for Border Crossing Cards are presented directly to ports located on the United States/Mexican border where they are adjudicated and issued by inspection personnel.



Accomplishments and Workload: Accomplishments of the Inspections program are presented in the following table:

Item	Estimates	
	1983	1984
Persons Inspected Port of Entry .....	300,942,686	298,943,149
Persons Inspected Pre-Inspection .....	6,881,438	7,292,966
Inadmissible Aliens Intercepted - port of entry.....	521,924	590,161
Inadmissible Aliens Intercepted - pre-inspection.....	11,846	11,281
Remoted Adjudications Completed.....	524,996	656,626
Border Crossing Cards Issued.....	136,369	170,006

During 1984, the Inspections program continued to experience high levels of workload. Total inspections were 306 million, of which 126 million involved U.S. citizens. Pre-inspection functions at major overseas airports accounted for 7.3 million additional inspections; a total of 601,442 inadmissible aliens were intercepted. Operational innovations leading to improvements in both border enforcement and facilitation of international travel continued to receive high priority during the past year. The new Nonimmigrant Information System, the automated Lookout System, Autopass, and the Combined Agency Primary Systems have allowed the existing inspectional staff to perform its functions in the face of consistently high workloads.

Program Decrease: The requested program decrease in appropriated funds reflects an anticipated increase in reimbursements from carriers resulting from changes in regulations that INS is currently pursuing regarding aircraft carrier payments of INS inspectional overtime at certain airports. This was recommended in a Government Accounting Office (GAO) report entitled "Opportunities for the Immigration and Naturalization Service to Improve Recovery Costs and Debt Collection Practices", dated July 13, 1984. The changes to the regulations appear as "final rule" in the Federal Register 50018, dated December 26, 1984.

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Border Patrol.....	3,707	3,458	\$154,660	3,706	3,651	\$160,529	...	...

Long-Range Goal: Ensure that the entry of persons into the United States between ports of entry is controlled in a manner which is consistent with the national interest as established and provided by Congress, by preventing entry without inspection and by detecting and apprehending illegal aliens within the United States.

Major Objectives:

Deter uncontrolled entry into the interior of the United States by the rapid detection, interception and apprehension of illegal entrants before movement to the interior can be achieved.

Substantially reduce the undocumented alien population currently in the interior of the United States and deter other potential illegal entrants from attempting entry.

Base Program Description: Approximately 39 percent of Border Patrol officer time is devoted to an activity known as line-watch. The purpose of this activity is the prevention of entry or the prompt apprehension of entrants after they have crossed the border. Officers engaged in this activity are supported by extensive computerized systems of electronic ground sensors which alert them to illegal entries. Further support is provided by a fleet of observation aircraft, a low light level television system and infrared viewing devices. The Border Patrol officers use a wide assortment of vehicles adapted to local terrain and operational requirements and employ motorcycles, all terrain cycles, boats and even horses where appropriate.

In addition to line-watch, traffic check operations are conducted along major routes of travel in order to keep illegal aliens from penetrating to the interior. Transportation centers are placed under surveillance for the same reason.

Farm and ranch checks, and city patrol operations are conducted in order to locate illegal aliens who have successfully entered the country. Other activities include crewman control, coastal patrol and liaison with other agencies.

Workload and Accomplishments: Accomplishments of the Border Patrol program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Deportable Aliens Located.....	1,105,670*	1,138,566	1,320,000
Smuggled Aliens Apprehended.....	86,707	91,722	105,600
Smugglers Apprehended.....	13,414	13,501	15,600

\* The 1983 "actual" for deportable aliens located has been revised from the number shown in the 1985 Congressional budget to correct a reporting error.

In 1984 the Border Patrol apprehended and processed 1,138,566 deportable aliens, the highest number in its sixty year history. Of these 1,056,907 were apprehended on the Southern Border, also a record. Apprehensions of other than Mexican aliens (OTM's) were 35,983 for 1984, up 23 percent over 1983. These figures point to a continuation of a trend of increase in immigration that began in 1982 as serious international debt problems beset Mexico and other Latin American countries. Since resources contained in the 1985 Border Enforcement Enhancement had not reached the field in 1984, record apprehension in 1983 and 1984 were achieved by improved management, the use of improved technology and by redoubled individual effort by Border Patrol Agents and support personnel.

The Border Patrol began preparations for implementing the 1985 Border Enforcement Enhancement in early 1984. Select officers were given training in techniques for interviewing applicants for Border Patrol agent positions, and interviews were stepped up. Additional testing sessions for the Border Patrol examination were scheduled, and arrangements were made for the creation of additional housing and classroom space at the Federal Law Enforcement Training Center (FLETC). Specifications were drawn up for new equipment and vehicles, and 3 additional helicopters were acquired on loan from the Army.

These preparations have begun to pay off. As of January 15, 1985, 370 Border Patrol Agent trainees had reported for duty. The number of trainees in session, including classes starting in late 1984, was 280 which exceeded the previous record of 136 set in December, 1987. Additional classes are scheduled at the rate of one every two weeks for the remainder of 1985. Thirty support positions for the enhancement have already been hired and recruitment of the remaining support positions is well underway. Over \$5 million has already been committed for equipment and vehicles associated with the enhancement. The equipment includes mobile and portable radios, binoculars, night vision goggles, pocket night scopes and sidearms. Contracts have been advertised for all of these purchases, and the equipment will be received as quickly as contracts can be signed and delivery schedules established.

New trainees reached the field in January, 1985. Productivity of these new officers will be reduced at first because of one day a week on-site training, and other aspects of familiarization. Overall productivity will also be diminished because nearly 100 officers have been detailed to FLETC to conduct training. Significant gains in effectiveness are expected in March or April when peak entries occur. Full productivity should be realized by the winter of 1986.

An increase of 46,234 apprehensions is included in the 1985 estimates as a reflection of additional staffing included in the 1985 appropriation. This estimate is based on an assumption of 12.5 percent productivity of the new officers in 1985.

The 1985 level of FTE workyears used may not meet the budgeted level because of unavoidable hiring delays on new positions. Anticipated savings from this lapse will be applied to essential construction and other projects. Projected apprehensions per workyear are down in 1985 and 1986 because of the large amount of time new agents spend in training, and because of the need to divert existing officer time to training and recruiting.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY
Investigations.....	1,022	790	\$42,621	1,021	789	\$42,579	1,021	789	\$42,579	...	...

Long-Range Goal: Identify violators, gather evidence of violations of the Immigration and Nationality Act and other related criminal laws, and initiate appropriate criminal prosecution or administrative action.

#### Major Objectives:

Ensure the prompt removal of aliens involved in narcotic traffic, subversion, terrorism, and other serious or violent criminal offenses.

Identify employers who hire illegal aliens, and deter the employment of illegal aliens.

Prosecute, deport, or cause the cessation of illegal activities of any person or entity who conspires and assists aliens to obtain immigration benefits through the use of counterfeit documentation or schemes designed to perpetuate large scale immigration fraud.

Prevent aliens from fraudulently or illegally applying for and receiving benefits from any government entitlement program and prosecute those who assist them.

Investigate matters referred by other Service branches in order to locate aliens who have absconded from Service proceedings, develop ground for denial of petitions and applications, and obtain evidence to support other administrative proceedings.

Base Program Description: The Investigations program identifies violators, gathers evidence of violations of the Immigration and Nationality Act and other related criminal laws, and initiates appropriate criminal prosecution or administrative action. Investigative officers are located in more than 70 offices throughout the interior of the country. Coordination is provided through headquarters in Washington and the four regional offices.

The volume of aliens seeking to enter this country illegally has increased dramatically in recent years. In 1983 the Border Patrol experienced a 35 percent increase in apprehensions, a jump which bears witness to the growing pressure on our borders.

The destination of illegal aliens, after successful entry, is a geographical location which offers the greatest employment opportunities, generally the large industrial and commercial centers in the interior of the country. If not apprehended, illegal aliens become entrenched in the economic system, and thereby displace U.S. citizens and resident aliens in the workplace and place an additional burden on social welfare payments. It is the objective of the Investigations program, through systematic targeting to apprehend and remove from the workforce as many illegal aliens as possible who are gainfully employed within major industrial areas of the United States.

The volume, complexity and sophistication of illegal activities in which illegal aliens or others who violate the immigration laws engage has led to the adoption by INS of an investigations case management system which divides investigative work into three levels of impact.

- Impact Level I is generally characterized as having a significant effect on the overall problem of illegal immigration as it relates to the United States' labor market, economy, government payout and sociological phenomena such as crime, or massive organized fraud. Included in this level are: (a) criminal aliens, (b) employers of illegal aliens, (c) fraudulent immigration schemes, and (d) fraud, waste and abuse by illegal aliens in entitlement programs.
- Impact Level II lists investigative functions that necessarily support the examinations and deportation functions. Individually, cases completed in Level II have less impact on the problem of illegal aliens in this country. However, a significant level of effort on these cases must be sustained or the integrity of the immigration process would be jeopardized. Included in this level are investigations of: (a) applications where fraud is suspected, (b) absconders, and (c) applications where fraud is not suspected but where the information furnished requires verification or substantiation.
- Impact Level III tracks activities that are either minimally or not investigative in nature or do not relate to enforcement of the Act. These activities include: (a) apprehension of status violators and entry without inspection at locations other than worksites, (b) non-act activities requiring investigations, and (c) non-investigative functions.

Priority acceptance criteria such as solvability, extent of criminal activity and dollar value of entitlement fraud, etc., and objective measures of success are applied constantly to cases to assure that only the best cases are worked.

Approximately 65 percent of the investigative resources are devoted to cases at the highest impact level. Remaining resources are expended in administrative investigations, primarily in the apprehension of aliens illegally in the United States and in the investigation of individual applications for visa benefits where fraud is suspected. A wide range of investigative techniques are employed as appropriate. Covert investigations are conducted to identify individuals and organizations involved in criminal violations of the IMA and related Federal statutes. Consensual monitoring and undercover techniques are employed, including the control of confidential informants and the undercover purchase of evidence. Aliens involved in organized crime, subversion, and terrorism are identified through joint investigations and liaison with other agencies, and the aliens are taken into custody for Service proceedings upon the completion of any term of incarceration imposed after criminal prosecution. Weapons and equipment used in the commission of criminal violations are seized under search warrant for safeguarding as evidence, and forfeiture proceedings are initiated when appropriate. Administrative investigations are accomplished through the use of traditional overt investigative techniques, such as interviews at places of residence and employment, and reviews of civil and business records. Investigations of employers of illegal aliens frequently, and other administrative investigations occasionally, require the service of subpoenas to obtain access to business records. Search warrants are used to gain access to employment sites where illegal aliens are working.

Accomplishments and Workload: Accomplishments of the Investigations program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Cases received 1/.....	52,308	41,265	41,300	41,300
Investigations completed 2/.....	36,431	30,732	31,000	31,000
Completed per funded workyear.....	95	50	50	50
Apprehensions 3/.....				
Resulting from investigation cases.....	112,372	23,082	23,000	23,000
Per funded workyear.....	292	38	38	38
Other apprehensions.....	...	44,830	45,000	45,000
Per funded workyear.....	...	291	291	291

1/ Under the case management system, implemented in the fourth quarter of 1983, a quantitative approach to case work was replaced with a qualitative one. A case is recorded as "received" only if it passes priority acceptance criteria. This resulted in a decrease in cases received in 1984. A case received becomes a "case in progress" if resources are available to complete it. If resources are not readily available and the case has no greater probability of significant success than those cases currently in progress, the case is dropped. Since all cases which pass priority criteria are presently counted as received no growth in receipts is anticipated for the 1986 request level.

2/ Completion marks the end of investigative activity on a case. Until the third quarter of 1983, cases were opened without reference to selective priority acceptance criteria or uniform measures of success. From a statistical accounting point of view, completing an investigation of an alien who voluntarily surrendered, whether or not requested to do so, was equal to closing down an immigration fraud scheme. The case management system, however, permits effective targeting of resources on high impact investigations which often involve undercover activities, multi-agency coordination and litigation support. These labor-intensive activities drive traditional case completion figures down. The 1983 productivity reflects a year of transition to the new system. The 1984 actual and 1985 - 1986 estimates reflect a concentration of resources on high impact cases calculated on the basis of 1984 data.

3/ In the last quarter of 1983, the focus of traditional area control operations was shifted from apprehending individuals or concentrations of illegal aliens in the workplace to ceasing the activities of employers known to hire illegal aliens. A drop in total apprehensions was anticipated. About 65 percent of FIEs are devoted to high impact cases with resulting lower apprehensions but more effective long term results. The remaining 35 percent of the FIEs are devoted to apprehensions and other lower impact cases. Thus, apprehensions became a by-product of the more time consuming investigative activities involved in high impact cases or as the result of arrests made by local police, voluntary surrenders, etc. The 1985 - 1986 figures are based on 1984 data.

The new case management system instituted in 1983, provides greater control of program productivity and more effective use of resources. Highest priority is placed on cases involving criminal aliens, employers of large concentrations of illegal aliens, fraud schemes to obtain immigration benefits and aliens who illegally receive benefits from government entitlement programs. These investigations are considered of greatest importance and impact in maintaining control of illegal immigration into the United States. This is a dramatic shift in emphasis. Previously the program expended most of its resources targeting individual illegal aliens, primarily at the workplace, and completing administrative investigations on individuals who applied for visa benefits or absconded from service process.

In 1984 investigations identified 18,719 ineligible aliens who were applicants for or enrolled in government benefit payout programs such as unemployment insurance, welfare, etc. The cost savings to state and local governments resulting from the removal or nonenrollment of these aliens in entitlement programs is calculated to exceed \$69 million.

Also, investigators located over 45,000 deportable aliens holding jobs in this country. Using average annualized incomes, it can be estimated that U.S. citizens and resident aliens were displaced from jobs worth \$386 million per year by employed illegal aliens.

More than 1,700 cases targeting notorious employers of illegal aliens were completed in 1984. More than 1,300 of these resulted in successful cessation of hiring of illegals by target employers. Since employment opportunity is the major cause of illegal immigration, reduction of the number of employers hiring illegals alleviates the main "pull" factor drawing people to this country illegally.

Investigations shut down 337 major fraud schemes in 1984. Typically, the targets in these cases systematically assist illegal aliens to circumvent the law by selling, manufacturing, procuring, or distributing counterfeit, altered, or fraudulently-obtained documentation, or by arranging fraudulent immigration schemes such as sham marriages, bogus family relationship or illegitimate labor certifications.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY

Anti-Smuggling.....	332	308	\$15,201	331	310	\$15,030	331	310	\$15,030	...	...
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Long-Range Goal: Reduce the number of illegal aliens in the United States and prevent the entry of unqualified persons by detecting and successfully prosecuting those individuals involved in the smuggling and transportation of aliens.

Major Objectives:

Identify smugglers of aliens.

Investigate and apprehend smugglers of aliens, concentrating resources on major violators.

Prepare sufficient evidence to support the U.S. Attorneys in obtaining convictions of smuggling violators.

Increase deterrent efforts such as conveyance seizures, extraterritorial prosecutions, fines and sentences.

Base Program Description: While the large majority of alien smugglers apprehended by INS enforcement personnel are considered minor violators operating independently and infrequently, a growing number of these violators are associated with large-scale, highly organized criminal conspiracies involved in this extremely profitable criminal activity. Quite often, these professional organizations are simultaneously involved in other illegal activities such as narcotics and weapons smuggling, extortion, kidnapping, peonage, and document fraud on an international scale. Criminal investigators assigned to the Anti-Smuggling program identify and infiltrate these major violators through the use of informants, surreptitious surveillance, undercover and task force operations, and interviewing, in order to collect evidence for arrests and subsequent prosecutions.

Anti-Smuggling officers, in prioritizing their investigative activities, utilize a case management system which categorizes smugglers as major violators, lower-level violators, and nonprofessional smugglers of household employees and relatives.

To increase its effectiveness in infiltrating and smashing alien smuggling conspiracies the Anti-Smuggling Activities program works closely with the U.S. Attorneys and with officials of the Republic of Mexico and Canada. The Mexican government has instituted assignment of special units at interior road checks in Mexico resulting in the apprehension of a number of Central American aliens, before they reach the U.S. border. With a change in legislation in Canada, smugglers in Canada who violate United States laws are prosecutable in Canada for those offenses.

Accomplishments and Workload: Anti-Smuggling program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Smuggling Principals Apprehended (Anti-Smuggling).....	1,618	4,416	4,900
Smuggling Principals Apprehended (Servicewide).....	15,032	17,917	20,500
Cases completed.....	3,839	2,668	3,200
Prosecutions			
Major.....	2,053	1,394	2,250
Minor.....	7,032	5,081	5,250
Convictions (Charges)			
Felony.....	2,023	2,153	2,800
Misdemeanor.....	4,539	3,308	4,400
Sentences (Months-All Charges).....	59,486	47,690	63,000
Conveyances Seized.....	6,925	8,775	13,200

A number of significant investigations of large-scale smuggling organizations were conducted during 1984 by Anti-Smuggling units. In one such case, an extraterritorial prosecution with the Government of Mexico resulted in the dismantling of this major smuggling organization and the successful prosecution of the ringleaders by the Mexican Government on murder and kidnapping charges. Another major case involved several federal agencies and Anti-Smuggling units in a coordinated task force operation which resulted in successful prosecution of an organization smuggling aliens from seven Latin countries. The organization ringleader and 40 co-conspirators were indicted on felony smuggling and conspiracy charges. Conspiracy to smuggle and harboring convictions were brought against an organization operating in the San Diego area which had brought in an estimated 100 aliens daily using commercial and recreational vehicles and even a horse trailer to evade checkpoint inspection. The case involved the use of sophisticated surveillance techniques to infiltrate the organization.

Other successful prosecutions included: one Grand Jury indictment of 29 persons for operating a multi-million dollar alien smuggling ring which extended from Eastern Europe through Mexico to the United States; several Joint FBI or DEA/INS investigations; two major cooperative smuggling cases, one of which has assets in excess of six million dollars; labor contracting smuggling; and smuggling with tractor trailers, motorhomes, and other unusual vehicles.

The increased focus by the INS on reducing illegal immigration is reflected in the increasing numbers of alien smugglers apprehended and successfully prosecuted during 1984. In 1984, the Service apprehended 17,917 smugglers, a 19 percent increase over 1983. Reflecting the intensified efforts of the Anti-Smuggling program to identify and bread up large-scale alien smuggling organizations and improve the quality of criminal investigations, a total of 6,475 prosecutions of alien smugglers were authorized, resulting in 5,461 convictions or a 84 percent conviction rate. As an adjunct to the criminal prosecution area, the Service seized a total of 8,775 conveyances (cars, trucks, vessels, airplanes) used in the smuggling of aliens, with an appraised value of more than \$19 million. This also represents a considerable increase in vehicle seizures over 1983, in which 6,925 conveyances were seized.



During 1984, the program has further refined its focus on the identification, apprehension, and successful prosecution of major alien smuggling organizations, particularly in those instances where there is the likelihood of conspiracy. The successful implementation of Guidelines on INS Undercover Operations, signed by the Attorney General on March 5, 1984, has greatly enhanced the effectiveness of these efforts. Anti-Smuggling personnel participated in providing security and contingency planning for the 1984 Summer Olympics in Los Angeles. During the current year, the program has generated extensive investigative efforts against broadly diversified smuggling organizations engaged in infant smuggling, hostage/ extortion situations, corporate smuggling, drug and counterfeit document trafficking, extra-territorial prosecutions, and terrorist activities.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount
Detention and Deportation...	1,152	1,189	\$76,094	1,151	1,188	\$77,711	1,151	1,188	\$77,711	...	...	...

Long-Range Goal: Adequately detain until ready for removal those aliens subject to exclusion proceedings and those subject to deportation proceedings who are likely to abscond or whose freedom at large would clearly represent a danger to public safety and security. Maintain and further develop a system of control which ensures that every case involving a deportable and excludable alien is processed expeditiously and, when appropriate, the alien's removal from the United States is effected.

#### Major Objectives:

Effect the prompt removal of deportable and excludable aliens to the greatest extent possible without detention.

Staff and maintain seven accredited INS Service Processing Centers (SPC) to ensure that adequate alien detention capability is available.

Detain aliens when necessary in non-INS facilities -- including contract facilities which meet INS standards.

Provide adequate transportation and expulsion functions at the Oakdale Alien Detention Facility in support of the Bureau of Prisons (BOP).

Allow apprehending activities to operate at full capacity by maintaining a parity of removal capability.

Maintain an automated control system necessary to cope with the increasing number of apprehended illegal aliens.

Base Program Description: The Detention program and the Investigations, Border Patrol and Anti-Smuggling activities are interdependent in that (1) Detention is reliant upon the other three to apprehend the aliens to be detained; and (2) the Investigations, Border Patrol and Anti-Smuggling activities must be paced to the availability of detention space. When an alien's freedom at large would clearly represent a present danger to public safety or security, or when an alien's lack

of funds or fixed address supports a finding that she/he is likely to abscond, that alien may be detained by INS pending a determination of deportability. Additionally, the Immigration and Nationality Act mandates that aliens who appear to be excludable be detained for further inquiry. To accomplish these detentions, INS utilizes SPC's and non-Service detention space.

The Detention program currently maintains seven permanent SPC's. These centers are located in Manhattan, NY; Boston, MA; Miami, FL; El Paso and Port Isabel, TX; El Centro, CA; and Florence, AZ and have a combined rated detention capacity for 2,139 illegal aliens. The immigration detention officers assigned to these facilities are responsible for all matters relating to the care and custody of the aliens detained. In addition to the SPC's, an INS/Public Health Service facility is now operational at St. Elizabeths Hospital in Washington, D.C. for the detention of mentally ill Cubans. INS also maintains a full-time staff in the Atlanta Penitentiary because of the criminal Cubans detained there. In addition to these overnight facilities a number of Service Staying Areas (SSA) for the temporary holding of apprehended aliens are also operated.

It is often cost-effective for the Detention program to use non-INS detention facilities. More than 900 of these non-INS facilities throughout the United States were used in 1984. About 52 percent of the aliens detained were detained in non-INS facilities. INS will continue to utilize non-INS detention facilities as much as possible to enhance its detention capability. Unfortunately, available detention space in state and local jails has declined because of escalating prisoner populations. Additionally, INS has also recently developed detention standards with the assistance of the Bureau of Prisons and some facilities previously utilized no longer meet these specifications. For these reasons, INS has begun to rely on contract detention facilities which are available exclusively for INS use in some locations.

The Deportation program accomplishes the removal of illegal aliens under either voluntary departure procedures or formal deportation proceedings. The major responsibilities of immigration deportation officers include the supervision of aliens while under bond, released on their own recognizance or in detention. Additional responsibilities include maintaining liaison with the Department of State and foreign governments to obtain travel documents in order to effect deportations or removals expeditiously.

An alien removal capability is provided by various methods. INS operates its own fleet of passenger vans and buses to transport aliens. In addition, an alien travel fund is maintained to cover the transportation expenses of those aliens expelled at U.S. Government expense. In 1984, about 28 percent of the aliens expelled incurred travel costs. The government paid all or part of the travel costs in over 86 percent of the cases where travel costs were incurred.

Accomplishments and Workload: Accomplishments of the Detention and Deportation program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Detention				
a. Aliens detained (Total).....	233,885	169,070	195,000	250,000
° INS Facilities.....	149,072	81,144	96,000	150,000

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Item	1983	1984	Estimates	
			1985	1986
° Non-Service Facilities.....	84,813	87,926	99,000	100,000
b. Number of detention days.....	1,084,639	1,236,926	1,249,000	1,549,000
° INS Facilities.....	715,481	778,712	821,000	1,121,000
° Non-Service Facilities.....	369,158	458,214	428,000	428,000
c. Average stay in detention (days).....	4.6*	7.3	6.4	6.2
Expulsions				
a. Aliens expelled (b+c+d).....	1,122,192	1,012,720	1,054,000	1,438,000
b. Voluntary departures under docket control.....	42,243	41,005	43,000	51,000
c. Voluntary departures not under docket control.....	1,062,720	951,728	990,000	1,358,000
d. Deportations effected.....	17,229	19,987	21,000	29,000
e. Aliens expelled at U.S. Government expense.....	259,206	244,091	250,000	250,000
f. Deportable aliens located, percentage expelled.....	93.2	85.6	88.1	85.6
g. Expelled aliens, percentage detained.....	20.8	16.7	18.5	17.4
Recognizance, Bond and Supervision.....				
a. Aliens released on recognizance.....	3,102	4,256	4,500	4,500
b. Aliens placed on bond.....	27,254	37,461	40,000	45,000
c. Aliens placed under supervision.....	94	55	100	100

\* The 1983 "actual" has been revised from the 1985 Congressional budget to correct a reporting error.

During 1984, of the deportable aliens located by the apprehending arms of the Service, 85.6 percent were expelled by the Deportation program either by deportation, voluntary departure under alternate orders of deportation, or by voluntary departure not under docket control.

The Detention program accomplished its mission during 1984 through the operation of six SPC's. In December 1984, INS began operation of a seventh SPC. Through an expansion program, the combined rated capacity of these seven facilities is now 2,139 detainees. INS has also begun to expand its utilization of contract detention facilities exclusively for INS use, and such contracts are now in place in Los Angeles, San Diego, Denver and Houston. A standard statement of work for contract facilities has been developed and will be used in future opportunities to utilize private sector entities for the safeguarding and care of Service detainees.

The Service has continued to initiate long-term improvements in its SPC's to ensure that they meet the detention standards which were developed in 1981. Extensive improvements are nearly complete in Krome and have been finalized at Port Isabel. To make certain that non-Service detention facilities (state and local jails, etc.) are equally acceptable, a jail inspection program was developed and implemented. Approximately 90 Service officers have been trained in the jail inspection program and a methodical survey of all non-Service facilities was initiated in 1983 and continued in 1984.

INS actively participated with the BOP in development of the 1,000 bed detention facility to be located in Oakdale, La. Construction is on schedule and the facility should be completed approximately October 1, 1985. No INS resources are requested for this facility; INS plans to participate fully in its operation by realigning its current workforce to provide a small staff there for the deportation and transportation functions. By using the Oakdale facility for longer term cases, spaces will be freed up in our border facilities for quick turnaround cases. INS has begun to plan for a mass immigration emergency, and a site adjacent to the Oakdale detention facility was selected for development of a contingency site which will be capable of detaining 2,000 - 5,000 aliens upon its completion. During 1983 and 1984, land, four prefabricated buildings, fence materials and tents were purchased; preliminary clearing and grading completed; a sewage hookup contract finalized; ground services construction (utilities) initiated; and basic concept and design work completed.

INS worked closely with the U.S. Public Health Service (PHS) to ensure that adequate medical and mental health care services were available in the SPC's. PHS provided a medical staff for two INS facilities on a reimbursable basis, provided medical escorts when necessary, inspected INS facilities, and recommended improvements where necessary. An interagency working group was established to facilitate future initiatives to ensure that aliens detained and waiting expulsion from the United States are provided an appropriate level of care. PHS and INS are also co-located at a facility on the grounds of St. Elizabeths Hospital in Washington, D.C. used for the detention and care of approximately 80 mentally ill Cubans.

There is still a large Cuban population in the Federal Penitentiary in Atlanta who are not eligible for parole or whose parole has been revoked. INS has established a full-time Detention and Deportation staff there to process them. Additionally, INS routinely participates on Cuban Review Panels which review each case annually. During 1983, 385 Cubans were released from Atlanta and 436 were placed into Atlanta upon revocation of their parole for a net increase of 51. The Detention and Deportation program is now actively involved in a Cuban Repatriation project whereby certain Mariel Cubans will be returned to Cuba in an orderly and systematic manner.

The Deportable Alien Control System (DACS), an automated docket control and detention booking system is now operational in the SPC's and in four major district offices (San Diego, Chicago, Philadelphia and New York).

Since responsibility for the Consenting Alien Program was delegated to INS in 1980 by the Department of Justice, the Detention and Deportation program has had organizational responsibility for it. A number of officers have been trained in defector protection and have been called upon on several occasions to take into protective custody those aliens who fear reprisal as a result of political asylum claims. A special program was conducted in 1984 to train additional officers who were available during the 1984 Olympic Games in Los Angeles in the event of defections.

Activity: Citizenship and Benefits	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Anticipated							
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Adjudications and naturalization.....	1,244	1,204	1,240	1,219	1,240	1,219	...	...
Refugees and overseas.....	68	119	66	117	66	117	...	...
Total.....	1,312	1,323	1,306	1,336	1,306	1,336	...	...

The resources necessary to provide the benefits of the Immigration and Nationality Act are provided in this activity. Included are the adjudication of applications and petitions submitted for benefits, and the processing of naturalization and citizenship petitions and applications. All operations conducted overseas except preinspection are within this activity.

Activity: Citizenship and Benefits	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Anticipated							
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Adjudications & Naturalization 1,244	1,204	\$45,318	1,240	1,219	\$44,974	1,240	1,219	\$44,974

Long-Range Goal: Provide for the timely adjudication of applications and petitions for benefits provided by law, and encourage, facilitate and provide timely naturalization of all eligible applicants.

#### Major Objectives:

Assure that benefits are provided to those entitled to them under the Immigration and Nationality Act, and denied to those not entitled, in a prompt and courteous manner and without undue burden on the public.

Attain and maintain currency in adjudications cases, which equates to a projected total pending of 190,000 cases (5 1/2 weeks' receipts).

Attain and maintain currency in naturalization and citizenship receipts, which equates to a projected total of 120,000 cases (four months' receipts).

Attain and maintain currency in asylum applications, which equates to 4,000 cases (four months' receipts).

Realign resources with workload in order that applicants will receive decisions of consistent quality and timeliness in all the various geographical jurisdictions of the Immigration and Naturalization Service.

**Base Program Description:** The Adjudications program--The principal statutory authorizations that this program administers are Sections 203, 204, 205, 212, 214, 245, 248 and 249 of the Immigration and Nationality Act. The purpose of the program is to provide prompt and correct decisions to persons seeking benefits, to detect fraudulent applications, and maintain control over aliens when necessary.

The Naturalization program--Article I, Section 8, Clause 4 of the U.S. Constitution mandates the establishment of a "uniform rule of naturalization." The Congress, in compliance with its Constitutional mandate, has specified in Sections 301 through 360 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1401 through 1503) the means by which an alien may become a U.S. citizen. It vests exclusive jurisdiction to naturalize in certain federal and state courts. It also reserves to the Attorney General the authority to prescribe the nature and scope of the examination of petitioners for naturalization as to their admissibility for citizenship and to make appropriate recommendations to the naturalization courts. This authority as to Section 332 of the Act (8 U.S.C. 1443) is exercised through INS employees designated by the Attorney General to administer the naturalization laws.

**Accomplishments and Workload:** Accomplishments of the Adjudications and Naturalization program are presented in the following table:

Item	1983	1984	1985	1986
Adjudications cases received.....	1,798,229	1,709,611	1,900,000	1,920,000
End of Year Pending.....	210,358	210,360	188,000	186,000
Adjudications completed within the program.....	1,297,156	1,055,983	1,172,000	1,172,000
Adjudications completed using immigration inspector standby time at ports of entry. (These case completions are not included in the "adjudications completed within the program" figures above.).....	524,995	655,626	750,000	750,000
Naturalization:				
M-400 and N-600 received.....	344,909	404,451	360,000	360,000
M-400 and N-600 completed.....	289,835	448,716	423,500	423,500
M-400 and N-600 pending at the end of the year.....	240,962	196,697	133,000	69,500
Persons naturalized.....	187,073	225,299	200,000	200,000
Certificates issued.....	27,534	28,205	30,000	30,000

Since 1977, there has been a steady productivity increase in the Adjudications program. In 1977, 1.23 cases were completed per productive work-hour. In 1984, this figure was 1.90. This computation is based on 1,656,000 completions and 870,000 productive hours. This represents a 54 percent overall productivity increase. This improvement can be attributed,

In a large measure, to recent management initiatives. The Service has adopted a Balanced Adjudications System (BAS), which provides for the most efficient processing of various types of applications as follows: emergency cases, fraud cases and cases requiring an interview are handled by district offices; simple non-interview cases are sent (remoted) to ports of entry (POEs) for completion by inspectors during standby time; and complex non-interview cases are remoted to four Remote Adjudications Centers (RACs), where personnel are free from collateral duties, telephone calls, and walk-in visits by the public. District offices may continue to handle applications on a walk-in basis formerly known as Up-Front Adjudications, but only those which the BAS assigns to the district office (e.g., emergency cases).

In 1983, there were 201,000 cases completed in RACS. In 1984, this total increased to 306,000. A comparison of productive hours between RACS and in-district processing for 1984 revealed that 28 percent more of an employee's time is devoted to adjudications in RACS than in district offices. Based on current estimates, 750,000 cases will be completed at POEs and 580,000 at RACS during 1985.

As of September 30, 1984, there were 201,563 adjudications cases pending. This amounts to over six weeks' receipts. The naturalization pending is 207,389, or nearly six months' receipts. It is estimated that overall, receipts in excess of 5.2 weeks will constitute a backlog in adjudications. Naturalization and asylum cases in excess of four months' receipts continue to constitute a backlog, although ultimately true currency in naturalization should be two to three months' receipts.

During 1985, elimination of all backlogs (naturalization and adjudications, including asylum) has been identified as a program priority. In addition, the Service is implementing a program to adjust 100,000 Cubans pursuant to the Cuban Adjustment Act over a one-year period from April 1985 through March 1986. They will also be eligible to apply for naturalization after adjusting. The program intends to continue to devote additional resources to the completion of naturalization casework during 1985.

Quality assurance is an increasing concern in Adjudications. Currently, there is an active review of cases denied, but there is no formal program for reviewing approvals. A supervisory review will be instituted to the extent feasible by October 1, 1985. Also, the Service is requiring maximum use of inspector downtime at ports of entry for the adjudication of remoted cases. To assure adequate quality of remoted work, additional training is required for inspectors.

Further deployment of the automated naturalization casework system will provide additional increases in productivity. During 1985, Adjudications will develop an Adjudications Casework System (ACS), which will be tested as a pilot at Chicago, O'Hare Airport, and Sweetgrass, Montana, before being revised and implemented in 1986 at other sites.

	1985 Appropriation - Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY
Refugees and Overseas.....	68	119	\$6,452	66	117	\$6,554	66	117	\$6,554	...	...

Long-Range Goal: Approve qualified applicants for refugee status and for admission into the United States; adjudicate petitions and applications for benefits under the Immigration and Nationality Act (INA); and verify claims on applications and petitions by conducting Immigration Investigations.

**Major Objectives:**

Coordinate with U.S. missions abroad, represent U.S. Immigration policy interests and concerns to host governments, international organizations, and private voluntary agencies.

Receive and adjudicate applications from persons requesting entry into the U.S. as refugees in accordance with the INA and yearly consultations between the President and the Congress.

Adjudicate applications and petitions related to individuals seeking admission into the United States as immigrants and other benefits under the INA.

Conduct investigations in order to verify entitlement to benefits under the INA and prevent fraud, alien smuggling, and other violations of U.S. Immigration laws.

Provide planning, coordination, review, and evaluation of the Service's asylum and interdiction programs.

**Base Program Description:** Under the Immigration and Nationality Act, as amended, the Attorney General is responsible for the review and approval of applications from individuals seeking to enter the United States as refugees. Under a delegation of this authority from the Attorney General, these refugee determinations, which exceeded 94,000 approvals and denials in 1984, are made by the overseas offices of INS. In addition, these overseas offices receive and adjudicate petitions, applications, and waivers from the inadmissibility provisions of law, submitted on behalf of aliens seeking to enter the United States as immigrants and obtain other benefits under the Immigration and Nationality Act.

The Service also provides assistance to citizens and lawful permanent residents abroad regarding adoptions, immigration or parole of alien spouses and children, travel documents, and other related immigration matters. In support of overseas refugee and adjudications work, and adjudications and investigations being done by the Service's offices in the United States in connection with aliens living abroad or in the U.S., overseas offices conduct investigations to verify entitlements, and if possible, prevent fraud, and smuggling, and other violations of U.S. Immigration laws.

Overseas offices, in coordination with U.S. missions abroad, carry out the Attorney General's responsibility for controlling the entry of aliens into the United States by representing immigration policy interest and concerns to foreign governments, international organizations, and private voluntary agencies. In representing these concerns to other institutions and individuals, the overseas offices provide for increased sharing of information in the international community on refugees and trends in international migration, the immigration laws and policies of the U.S. and other nations, immigration fraud and international smuggling, and possibilities for collaborative enforcement and other immigration related efforts.

This unit also plans, coordinates, reviews, and evaluates agency field efforts in processing applications from individuals seeking permanent admission into the United States as asylees. These individuals, though distinct from refugee applicants



In that they are already physically present in the United States, must satisfy the admission requirements of the Refugee Act of 1980.

Finally, this unit is responsible for reviewing requests for the use of the Attorney General's authority to grant humanitarian parole into the U.S. for deserving individuals, and coordinating the Service's interdiction program with other participating Federal agencies. The latter program, with the assistance of the Coast Guard, provides for interdiction and return to countries of embarkation, individuals attempting to reach our shores illegally.

Accomplishments and Workload: Accomplishments of the Refugees and Overseas program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Refugees Approved for Entry:			
Pending/Backlog*			
Received.....	7,801	12,681	12,000
Completed.....	104,190	107,437	108,000
Completed.....	96,389	94,756	96,000
Adjustments Completed:			
Pending/Backlog*	4,331	6,218	***
Received.....	42,860	42,804	43,500
Completed.....	47,752	42,598	43,500
Investigations:			
Received.....	3,305	3,303	3,500
Completed.....	3,351	2,583	3,500

\*These are incomplete cases at year-end.

In 1983 and 1984 the Service improved the effectiveness and efficiency of its overseas operations through (1) the issuance of INS Worldwide Guidelines for Overseas Refugee Processing; (2) the redistribution of workload among overseas offices commensurate with worldwide geographical changes in the distribution of workload; (3) the addition of improved training and rotation policies for overseas personnel and the replacement of temporary detail personnel with fewer and less costly permanent staff; (4) improvement in the conditions of service for overseas personnel; (5) streamlining the Service's headquarters management support for overseas offices through greater reliance on the program management capacity of overseas offices, the greater use of routine administrative services provided by State Department embassies and consulates abroad, and emphasis on substantive programmatic review by Washington headquarters; (6) the establishment of a formal headquarters review of denied refugee cases; and (7) relocation of the Hong Kong district office to Bangkok to provide for improved direction and greater effectiveness and economy in the Service's operations in Asia. In addition to these accomplishments, the Service has also begun to examine ways to increase the ability of overseas offices to contribute to the agency's domestic goals and operations through strengthened and more closely coordinated adjudication, investigation, and enforcement related activities.

Accomplishments in the Service's asylum program have included the prioritization of the agency's asylum case backlog, the establishment of corresponding monthly processing goals, the installation of new asylum officer training programs, and improved coordination of the Service's asylum operations with the Department of State, and the Board of Immigration Appeals which hears appeals from field decisions on asylum cases. This unit has program development and monitoring responsibility for the asylum program, but the personnel resources for case adjudication are within the Adjudications and Naturalization Program.

With regard to the Service's interdiction program, the Service continues its efforts in 1985 to strengthen cooperation between participating Federal agencies and the countries of the Caribbean from which most of those intercepted embark.

Activity: Immigration Support	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Anticipated			Perm.			Perm.			Pos.	Amount
	Perm.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount		
Training.....	61	61	\$6,536	59	59	\$6,526	59	59	\$6,526	...	...
Data and communications systems.....	197	189	49,101	191	183	49,736	191	183	49,736	...	...
Information and records management.....	1,171	1,214	37,200	1,161	1,210	36,162	1,161	1,210	36,162	...	...
Intelligence.....	31	27	1,531	30	26	1,507	30	26	1,507	...	...
Research and development....	2	2	533	2	2	532	2	2	532	...	...
Construction and engineering	17	19	13,699	17	19	6,072	17	19	6,072	...	...
Field management and support	302	284	13,702	301	283	13,712	301	283	13,712	...	...
Legal proceedings.....	223	203	11,075	222	203	10,894	222	203	10,894	...	...
Total.....	2,004	1,995	133,377	1,983	1,985	125,141	1,983	1,985	125,141	...	...

This activity includes the resources for construction, communications, records management, automated data processing, training of personnel, research and development, field management, legal proceedings and the alien documentation program (ADIT). In addition, it provides a capacity to scientifically examine and analyze documents to assist in the identification, investigation and prosecution of major conspiracies which provide fraudulent documents to smuggled aliens.

Activity: Immigration Support	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Anticipated			Perm.			Perm.			Pos.	Amount
	Perm.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount		
Training.....	61	61	\$6,536	59	59	\$6,526	59	59	\$6,526	...	...
Long-Range Goal: Establish and maintain an employee development system that meets the needs of management and individual employees, and complies with regulatory requirements.										...	...

#### Major Objectives:

- o Servicewide Operations Training:
  - a. Provide basic training for all new recruits to the officer corps.
  - b. Provide advanced technical training primarily for the journeyman officer corps.
  - c. Maintain an updated curriculum for the basic and journeyman officer corps training programs.
- o Servicewide Support Training:
  - a. Provide a Servicewide training program for INS supervisors, managers, management officials and executives.
  - b. Provide Servicewide technical training programs to meet requirements not satisfied by in-Service programs.
- o Regional and Local Training:
  - Provide training for organizational and individual requirements that are not accomplished through national or Servicewide programs.

Base Program Description: INS training requirements are identified annually and revised during the year as dictated by new regulations, legislation or organizational needs. Actual training is accomplished by in-Service training programs using INS instructors, training programs conducted by other agencies, private firms or a combination of the foregoing. In-Service training programs are primarily related to specific INS subjects. The following is a brief description of the activities:

Servicewide Operations: Comprises the law enforcement and other operations training (basic and advanced) delivered to the officer corps personnel and any other employees directly involved in Servicewide operations (e.g., contact representative, deportation docket clerks and trial attorneys). Training is conducted primarily at the Officer Development Training Facility (ODTF) in Glynnco, Georgia. Included under this activity are the positions permanently assigned to and the general administrative costs at the ODTF.

Servicewide Support: Provides for the (1) development and implementation of technical training programs for executive, managerial, supervisory, clerical and administrative employees; (2) technical training not conducted at the ODTF for all other occupational groups; (3) development of policies and procedures regarding employee development; (4) determination of validity, effectiveness and efficiency of all INS-wide training programs (including operations training); (5) evaluation, consultation, research and implementation of new training techniques to improve curriculum; and (6) the training of employees who perform the task of formulation and execution of the INS budget. Included in this activity are the positions permanently assigned to the Central Office (excluding the officer training) and the resources for all Servicewide support training.

Regional and Local Training: Includes specialized training and development needs of employees in the Central Office and the regions. These needs primarily have individual or local implications which are not presently required for Servicewide programs. These programs are conducted either locally, in-house or by external sources. Included in this program element are the training officer and support positions permanently assigned in the Central and regional offices, and those resources needed to cover tuition costs, travel and per diem.

Accomplishments and Workload: Accomplishments of the Training program are presented in the following table:

Item	1983	1984	Estimates	
	1985	1986		
<b>Workload Production/Training Completions:</b>				
Border Patrol Basic.....	250	284	590	480
Immigration Officer Basic.....	93	175	240	240
Detention Officer Basic.....	114	79	120	120
Journeyman Officer Training.....	324	449	460	460
Basic Supervisory Development.....	184	264	216	216
Management Development.....	186	28	200	200
Executive Development.....	23	25	30	30
Extension Training.....	1,364	659	1,400	1,400
Contact Representatives and Docket Clerks.....	72	24	50	50
Regional/Central Office Training.....	2,507	2,760	2,550	2,530
Occupational Surveys for Project Course Review.....	2	1	...	...
<b>Workload Production/Training Starts:</b>				
Border Patrol Basic.....	323	324	950	330
Immigration Officer Basic.....	143	185	240	240
Detention Officer Basic.....	152	103	120	120

In 1984, 538 officers completed the basic officer corps training program at the OOTF. The length of these basic officer programs is as follows: Detention - 6 weeks, Immigration - 14 weeks, and Border Patrol - 17 weeks. Journeyman training was provided for 449 officers, and 292 INS supervisors and managers attended supervisory/managerial training courses sponsored under Servicewide programs. In addition to Servicewide programs, 2,760 individual training courses were provided to INS employees to meet regional and local training needs.

In addition, a great deal of planning and coordination has been required in order to accommodate the large 1985 increase in Border Patrol trainees. Efforts are also being made to locate more cost effective training sites throughout the United States as it is becoming increasingly more difficult to obtain training space for non-basic training programs at the Federal Law Enforcement Training Center at Glynco, Georgia.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY
Data and Communications Systems	197	189	\$49,101	191	183	\$49,736	191	183	\$49,736	...	...

Long-Range Goal: Increase the efficiency and effectiveness of INS operational, administrative and managerial functions by providing the optimal level of data automation support; provide the modern data communications required to support all INS

information needs; produce and issue alien identification documents; and provide radio and electronics equipment and systems required by the INS to support its service and enforcement functions.

#### Major Objectives:

##### ADP Systems --

Operate and maintain current systems: Master Index System, Nonimmigrant Information System, Financial Management Information System, Anti-Smuggling Information System, Performance Analysis System, Immigrant Visa Data Capture System (IMDAC) and the Vehicle Accounting System, with upgraded access by Service employees to these systems with enhanced software and additional user hardware.

Operate and maintain new ADP Plan based systems and databases which have become operational in 1984 and 1985: Central Index System, Students/Schools enhancement to Nonimmigrant Information System, Legal Case Tracking, National Alien Immigration System, Adjudications Casework Support, Seized Vehicle System, Freedom of Information and Privacy Act System, the Remote Adjudications Tracking System, Marriage Fraud Identification System, and Alien Status Verification System for use with the Systematic Alien Verification for Entitlements (SAVE) program.

Continue with the implementation of the ADP Plan by the installation of hardware and word processing, data communications and facility operations made possible by the competitively awarded contract in the third quarter 1984.

Install redesigned ADP Plan based systems at additional INS locations. The systems included in this expansion are: Legal Case Tracking, Adjudications Casework Support, Naturalization Casework Support, Deportable Alien Control, Anti-Smuggling Information System and Marriage Fraud Identification System.

##### Data Communications--

Operate the Immigration and Naturalization Service 36,000 mile Communications Network (INSINC). Provide INS field offices with inter-office data communications and remote access to centralized databases and computing resources with the capability to expand to support new applications contained in the Long Range ADP Plan by upgrading the backbone network with higher speed lines to maintain throughput with increasing transaction volumes.

##### Alien Documentation, Identification and Telecommunications (ADIT) Systems--

Maintain high volume, cost-effective production and issuance of secure identification cards and updates to computer databases associated with identity information.

##### Radio and Electronics--

Provide INS operating units with reliable, modern radio and electronics equipment and systems. These will support the

mission goals associated with enforcement and control of illegal migration. Expand the use of MICROWAVE systems began in 1984 and 1985.

Provide automated intrusion detection capabilities at selected Border Patrol sectors consisting of a variety of sensor and imaging equipment with centralized monitoring at the sector for dispatch and reporting purposes through the CADRE Systems.

Provide an effective maintenance program and equipment replacement and upgrade schedule. This is required to ensure effective operation of communications and electronics capabilities.

Base Program Description: Development, operation and maintenance of existing and developing ADP systems are accomplished by: (1) computerized support provided on a reimbursable basis by the Justice Data Service Center in Washington and the dedicated Southwest Data Center in Dallas, Texas; (2) commercial timesharing services; and (3) purchased or leased hardware provided through the equipment acquisition project.

Systems will be maintained at current and expanded levels of service through the operation of existing and recently developed systems defined in the long range ADP Plan.

The Data Communications program will continue to operate the recently-implemented data communications network providing remote access to central computer records.

Volume Identification card issuance and database establishment is accomplished through the operation of the Immigration Card Facility. The facility is operated under contract with technical and operational direction and performance monitoring performed by on-site INS personnel. The production operation functions at a base rate of 1,100,000 cards and associated database entries annually to meet minimum recurring documentation needs.

The Radio and Electronics program provides Service operational elements with radio communications, intrusion detection (electronic sensors and imaging equipment), and electronics security equipment and systems. Radio frequency management, inventory and replacement schedules are maintained through the use of microcomputer and time-sharing services.

#### Accomplishments of the Data and Communications Systems program:

##### I. ADP SYSTEMS

##### 1. Systems Planning--

The 1985 request represented the second full year for the new INS automation program as defined in the Service's Long Range ADP Plan. Following its acceptance in 1982, the plan's early development initiatives were begun on schedule. The 1984 request was formulated to allow these early efforts to be fully pursued. The three specific accomplishments of 1984 which

are allowing early implementation of the Plan were (1) award of a contract for software development, (2) agreement with the Department of Justice to establish a Southwest Data Center to support the software systems envisioned in the Plan which are being developed ahead of schedule and (3) third quarter 1984 award of an ADP hardware and facility operations contract. These initiatives are providing a continuing source of ADP professional and computer processing resources to development efforts underway as identified below.

## 2. Systems Development---

Numerous developmental efforts are now underway or have been completed: (1) The Central Index System was completed in August 1984 for prototype implementation; (2) The Students/Schools system became operational in September 1984; (3) The Legal Case Tracking System which provides needed support to Service's legal offices was implemented in the 4th quarter 1984; (4) The National Alien Immigration System was expanded to major secondary inspection sites for support of the 1984 Olympics; (5) The Adjudications Casework Support System will provide adjudication processing support to INS offices nationwide; (6) The design and development of a system to support investigative efforts in the detection of marriage fraud was completed; (7) The Performance Analysis System is being enhanced to improve data timeliness and quality; (8) The redesign of the Naturalization Casework and the Deportable Alien Casework systems was completed and implemented in the Chicago District Office during the 4th quarter of 1984; (9) The Alien Status Verification System which provides States' access to INS automated records has been made available to three States through the SAVE program. When fully implemented this cost avoidance system has the potential of avoiding ten billion dollars of payments to illegal aliens.

## 3. Systems Operation--

The following operational systems have been recently expanded to additional sites or functionally enhanced: (1) the Master Index System is being expanded to over 40 new locations and serves a total of over 120 INS and State government offices; (2) the Nonimmigrant Information System which replaced the Nonimmigrant Document Control System has been improved to point that over 350,000 records can now be loaded in a 24 hour period. This capability has permitted the database to meet currency goals and has resulted in over 36 million records being maintained on the database; (3) numerous improvements were made in the various subsystems of the Service's Financial Management Information System; (4) the Anti-Smuggling Information System, which became operational in January 1984, was expanded to support the El Paso Intelligence Center in April 1984 and is currently available Service-wide; (5) the timeliness of the Performance Analysis System has been improved such that its products are now being used by central and regional INS management to support the decision making process; (6) the Immigration Card Facility now produces and issues over one million Alien Registration Receipt Cards and Nonresident Alien Border Crossing Cards annually with a design capacity of over 3 million documents annually. This capability was made possible by a redesign of the production control ADP system and streamlined card assembly procedures; (7) the Immigrant Visa Data Capture Project, which allows several Service databases to be updated from a single source, was transferred to a new site and is now fully operational for immigrant and adjustment of status cases; (8) the Service's numerous word processing units were standardized which resulted in an expansion to over 200 units from the original number of 130, an increase of over 70 units with a savings of \$18,000 per year resulting from a reduction in per unit cost.

## II. DATA COMMUNICATIONS

The Service's data communications network (INSINC) has been expanded to over 120 INS field offices allowing for immediate access to INS systems on the Justice Data Centers. INSINC has been expanded to include access to at least two non-INS information sources--the National Law Enforcement and Telecommunications System (NLETS), which provides information from State law enforcement systems and the FBI's National Crime Information Center (NCIC), which provides information on Federal offenders. Additionally, INSINC is permitting three States access to the Alien Status Verification System which provides the capability for the avoidance of entitlement benefits to illegal aliens.

## III. RADIO AND ELECTRONICS

### 1. Radio Systems--

Installation of the Detroit radio system has been completed on schedule. The Southern California Microwave System path survey design was finalized and the specification package offered for vendor review and comment. An interagency agreement was signed with FAA for sharing microwave systems to the maximum extent possible. Detailed arrangements are being developed. The initial leg of the system from Oklahoma City to Dallas has been completed and is fully operational; this was a coordinated effort with FAA. A similar arrangement is underway for implementing microwave backbone for the New Orleans segment (Texas to Florida) through a joint effort with FAA. Installation of the Dallas - San Antonio - Houston microwave system is continuing. A large quantity multi-year mobile and portable radio acquisition was completed in 1984 and a separate large quantity portable radio acquisition in 1985 is in the final award stage. The overall effect is replacement of approximately ten percent of aging radio equipment in both 1984 and 1985 as well as providing additional radios for the increased number of officers authorized in 1985. Site surveys have been completed and action initiated for radio communications systems in four additional offices: St. Paul, MN; Omaha, NE; Kansas City, KS; and Salt Lake City, UT.

### 2. Electronics Systems--

Equipment for the Marfa and McAllen intrusion detection systems have been installed and acceptance testing completed. Contracts for both land mobile infrared imaging equipment with remote image TV as well as airborne Forward Looking have been awarded. A contract for airborne Forward Looking Infrared (FLIR) imaging equipment has been awarded.

A requirements analysis was completed and documented for a uniform detection system (CADRE) and a contract awarded for software development. The closed circuit television system at the El Centro Service Processing Center was upgraded. A sensors and signal transmission equipment acquisition for the Swanton, Tucson and San Diego Border Patrol sectors is underway. A major improvement in sensor connectors was developed and incorporated into all new equipment being delivered. Contracts have also been awarded in 1985 for a variety of imaging equipments (night vision goggles, binoculars and low light level pocket scopes) for Border Patrol enforcement support.



1985 Appropriation Anticipated	1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Information & Records Mgmt..	1,171	1,214 \$37,200	1,161	1,210 \$36,162	1,161	1,210 \$36,162	...	...
<p><u>Long-Range Goal:</u> Information Services--Develop and maintain an effective program to provide timely and accurate information to the public and the INS concerning immigration benefits and procedures, policies, plans and activities.</p> <p>Records--Develop and maintain a records and information system emphasizing timeliness of service to meet the needs of INS' operating components and other U.S. law enforcement agencies with high quality, responsive support.</p> <p>Freedom of Information and Privacy Acts--Develop and maintain a program to ensure full service compliance with the Freedom of Information and Privacy Acts.</p> <p>Statistics--Maintain valid and reliable INS workload and statistical reporting systems and conduct special statistical studies in support of the INS's operating units involved in enforcement and benefit processing activities.</p>								
<u>Major Objectives:</u>								
<u>Information Services--</u>								
Respond to 90 percent of all telephone inquiries from the public within five minutes.								
Respond to 100 percent of all in-person inquiries received from the public within fifteen minutes.								
Respond to 100 percent of all written inquiries received from the public within fifteen days.								
Improve service to the public by providing better information, reducing response time and improving public service area facilities.								
<u>Records--</u>								
Achieve the goals and strategies in the INS Mission Plan including the reduction of records holdings and dependence on hard copies.								
Reduce significant backlogs and improve responses to requests from the public, INS personnel, law enforcement agencies and other government agencies.								

Improve the control, maintenance, and availability of immigration and naturalization records and information derived from these records.

Support the INS Files Control Offices by continuing to provide training and operational support for automated systems.

Deliver all field office mail to appropriate offices within the shortest possible time.

Expand the quality assurance program for work performed by contractors on the automated Nonimmigrant Information System (NIIS) and Immigrant Data Collection System (IMDAC) and performed by INS personnel on various internal automated tracking systems.

#### Freedom of Information Act and Privacy Act--

Respond to all Freedom of Information and Privacy Act requests within statutory and regulatory time limits.

Publish notices of systems of records subject to the Privacy Act and insure servicewide compliance with records maintenance and disclosure requirements of the Privacy Act.

Insure that all Service employees are informed of their responsibilities under the FOIA and Privacy Act.

Insure that personnel involved in FOIA and Privacy Act administration are adequately trained.

Reduce FOIA/PA appeals and litigation.

#### Statistics--

Accomplish optimum ADP integration of a new Servicewide productivity measurement system to provide program managers with a valid basis for revising performance standards, projecting workload levels, and effecting resource/workload allocations and redistributions. This new system will be consistent with the Long-Range ADP Plan.

Advance service to users through the employment of state-of-the-art statistical techniques such as sampling, and automation to maximize the validity, efficiency and quality of data production.

Maintain a program for the systematic review of the validity of data.

Base Program Description: Information Services--Inquiries are received by telephone, in person and in writing. These inquiries are handled by Contact Representatives (CR). To improve response times and still provide high quality personal service to the public's inquiries, efforts are directed toward automating many of the Contact Representative's support systems. Word processing equipment and automatic sequencing of incoming telephone calls with recorded messages, have been placed in operation at various Service offices and are continually being expanded. Forty-seven multi-language general information library tapes have been prepared and are in use at selected field offices.

Records--The application of ADP and related technologies, and contractual services in the control and access of the records is moving forward both at the Central Office and the field offices. The records or items of information from them are furnished to users upon request. Alien files and various other records are maintained at 51 files control offices throughout the United States. Quality assurance of contractor performance on HIS with a students/schools subsystem and IHDAC is monitored and job evaluations are performed to determine if approved quality assurance documentation standards are being met.

Freedom of Information and Privacy Acts--Requests for access to or amendment of INS records are received at INS offices throughout the nation. The determination to grant or deny a request is made at the district or regional office receiving the request and maintaining the appropriate records. INS answers approximately 32,000 requests per year. INS maintains nine (9) Privacy Act records systems; however, the primary system, INS 001, has twenty four (24) subsystems, many of which are comparable to independent records systems. The FOIA/PA program is guided from a Central Office program staff, through regional coordinators, to a network of district FOIA/PA coordinators.

Statistics--Field offices transmit data covering all INS activities and accomplishments to the Central Office. This data is published in various tables and reports for use by INS operating units, other Federal agencies and the public. Workload and resource data are manually collected and presented through an auto-rated system which aggregates productivity reports for all INS functions and organizational levels. A statistical yearbook is published covering actions on immigrants, nonimmigrants and INS enforcement activities.

Accomplishments and Workload: Accomplishments of the Information Services program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Information Services:				
Pending Beginning of Period -				
Correspondence.....	13,430	8,320	9,810	9,810
Receipts - Correspondence.....	633,381	641,481	640,000	640,000
Completions- Correspondence.....	638,491	639,991	640,000	640,000
Inquiries				
Ask Immigration Tele. System.....	898,000	1,755,000	2,600,000	2,600,000
Non Ask Immigration Tele. System.....	4,869,000	4,649,000	5,000,000	5,000,000
In person.....	5,584,000	5,612,000	5,600,000	5,600,000
Records:				
Receipts -				
Incoming and/or outgoing mail.....	20,500,000	21,000,000	22,000,000	22,000,000
Files opened.....	732,586	658,853	800,000	800,000
Index searches.....	2,601,464	3,566,844	3,100,000	3,100,000
Files transferred or forwarded on loan.....	590,226	610,136	600,000	600,000

Item	Estimates	
	1985	1986
Filing material into "A" files.....	1,126,394	1,186,117
Completions -		
Incoming and/or outgoing mail.....	20,500,000	21,678,000
Files opened.....	722,768	688,863
Index searches.....	2,581,384	3,477,878
Files transferred or.....		
forwarded on loan.....	586,326	601,334
Filing material into "A" files.....	1,117,031	1,156,344
FOIA/PA:		
Receipts (On Hand)		
Freedom of Information Act &		
Privacy Act Action.....	37,011	36,910
Completions		
Freedom of Information Act		
& Privacy Act Action.....	32,481	32,269
Statistics:		
Receipts		
Unedited and unvalidated reports.....	7,225	7,225
Inquiries.....	2,725	2,700
Completions		
Edited and validated reports.....	7,225	7,225
Consolidated edited and		
unvalidated reports.....	1,203	1,203
Statistical yearbooks.....	1	1
Public use tapes.....	16	18
Inquiries answered.....	2,725	2,700
Users served.....	6,832	7,000

Information Services--During 1984, stand alone tape library telephone systems ("Ask Immigration") were in operation at twelve cities nationwide: Atlanta, Chicago, Dallas, Detroit, Houston, Miami, San Antonio, San Diego, San Francisco, Seattle, Tampa, and Washington, D.C., and other locations (named below) are served by our regionalized telephone service centers(TSC).

In April 1984, the Eastern TSC was established and in July 1984 a Western TSC began operation in Los Angeles. The TSCs provide dedicated telephone answering service to the general public using taped messages. The Eastern Center is located at New York, N.Y. and provides service to the District Office at New York, Newark, Philadelphia, and Boston. The Western Center is now serving Los Angeles callers and will shortly be expanded to provide telephone service to San Francisco, San Jose and San Diego District Offices (DO). When the public calls their local district office using the DO general information number, their calls are automatically routed to the regional center servicing that district office. Preliminary planning has been started for centers in the Northern and Southern parts of the country.

Also, the Miami Showcase lobby was completed during 1984 with the installation of self-service Ask Immigration telephone equipment (I-DIAL) and client-operated video equipment (IVIS) which provides detailed instructions on forms completion.

An inventory of word processing equipment was conducted during 1984 which indicated that there is no word processing equipment designated solely for the information units in any District Office. To reduce backlogs and facilitate timely responses to written inquiries, word processing equipment was requested for offices which receive large volumes of correspondence, and a series of standard responses has been developed to maximize use of automation.

Records-Much has been accomplished in the area of automation of the Records operations to make the search and record keeping activities less time consuming. As of November 1984, forty-nine Files Control Offices (FCO) have been placed on-line with each office having the capability to perform records data entry functions and the ability to access the Master Index System.

The first Records and Information Conference (RAI) since 1977 was held from April 29 through May 3 1984. The attendees were Central Office, regional and field Records and Information management personnel. The purpose of the RAI Conference was to improve communications and to improve the effectiveness of overall information systems support to the Service's operating units and the public.

The Records Technical Assistance Team (Tiger Team) organized, staffed, and trained since January 1984 has provided valuable assistance in improving records management in operational conditions Servicewide including the reduction of backlogs. The Tiger Team has provided technical assistance to six (6) field offices: Newark, Washington, New York, Los Angeles, Miami and San Francisco. The team has visited New York twice during this period. The team has scheduled technical assistance for the Cuban Adjustment Program and another effort at Los Angeles.

INS and General Services Administration (GSA) have joined in a mail demonstration project to illustrate the potential for mail expense savings throughout the government. GSA recently conducted a mail management survey that included 21 representative Federal agencies. INS volunteered to take part in one of the demonstrations, and agreed to cooperate with GSA in sponsoring a joint project within INS. Two analysts from GSA are assigned to INS for several months. Thus far, the team has visited Washington, Baltimore and Dallas District Offices to interview and to observe mail practices. In November a mail management seminar was held to implement a postage reduction program throughout INS.

Under Project INFURM, basic files accountability was established in the Washington District Office during the first quarter of 1984. This included the initial operation of a local A-file tracking system using bar coding, the creation of new A-file folders with color-coded tabs and bar-coded A-numbers, and the conversion of the Federal Records Center (FRC) card index to machine readable form. Files cleanup in preparation for the establishment of files accountability was complete in New York, Los Angeles, and Miami. Furthermore, barcoding of A-files was completed at Chicago, and conversion of FRC Index Cards to machine readable form was completed at New York and Chicago.

Quality Assurance (QA) Branch, part of the Records-Program Element, was established in May 1983 to include design of quality factors to measure INS information systems and provide contractor technical support to vendors responsible for data reduction of nonimmigrant and immigrant systems. Additionally, a Service QA field structure with three document control centers

(DCC'S) was set up to respond to the contractor's decentralized approach of data reduction services. In October 1983, the Service's QA field organization was restructured (i.e. reduced from three DCC's to one DCC located at London, Kentucky) to be more responsive to the contract decentralized approach to data collection and centralized approach to data reduction services.

When a relatively new contractor defaulted on his data reduction contract during 1983, QA successfully completed negotiations and acceptance of a new data reduction services contract for the nonimmigrant arrival and departure control documents. With improved and increased contractor performance, over twelve million nonimmigrant control documents were converted and input into the Nonimmigrant Information System (NIIS). In March 1984, the long standing backlog of over three million nonimmigrant control documents was eliminated. This was truly a significant achievement, realizing that for the first time in several years the NIIS is current with nonimmigrant data available in an automated form to respond to inquiries.

Workshops were conducted in the Southern and Northern Regions. An automated FOIA/PA Case Tracking and Reporting System was developed. A Service Users agreement was developed to establish requirements for non-INS users access to INS automated Privacy Act records systems. The Orphan Petition and Alien Status Verification Index Privacy Act System notices were published during 1984.

#### Freedom of Information and Privacy Acts:

An automated FOIA/PA Case Tracking System was operational in January 1985. The system accurately accounts for FOIA/PA requests, automatically prepares routine response letters and controls records, and eliminates district and regional office monthly 6-23.26 A and B Supplemental Reports. These reports are now available on a real-time basis. The system provides other reports and access by FOIA/PA managers to improve management of FOIA/PA administration.

A FOIA/PA Coordinators Conference was held at Central Office in September 1984. The conferees included the FOIA/PA Coordinators from each region and one representative district office from each region, along with CO FOIA/PA program staff. The conferees set the agenda for innovative improvements in FOIA/PA administration.

FOIA/PA training workshops were conducted by the Central Office FOIA/PA staff at Dallas and Seattle in 1984.

New Privacy Act record systems were published: JUSTICE/INS-009, Alien Status Verification Index (ASVI) allows non-INS agencies access to basic INS alien data on a remote terminal basis to determine eligibility for various benefits and to reduce payments or granting of benefits to ineligible aliens. The FOIA/PA Section developed a prototype interagency agreement to be used in conjunction with granting remote terminal access for other agency users of the ASVI system. Also, the JUSTICE/INS-007, Orphan Petition was published.

The primary INS Privacy Act System, JUSTICE/INS-001, INS Index System was revised to expand routine uses to allow disclosure of information on a discretionary basis to state, local, and foreign government agencies at their request.

Statistics--During 1984 the Performance Analysis System (PAS) was enhanced with the development and implementation of a new edit and transaction updating cycle. A complete system revamp for Adjudications and Naturalization was accomplished as well as training on the use of PAS for Central Office and regional personnel. The Branch upgraded and expanded INS' Statistical Yearbook to incorporate additional tables and a glossary in order to better meet data user needs and set up a new system for producing tables for the statistical data series within the Branch to increase the capabilities of the system. The data series on nonimmigrants which was interrupted in 1979 was resumed. Arrival data from the Nonimmigrant System have been aggregated and for the first time matched with departure data.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY Amount		Perm. Pos.	NY Amount		Perm. Pos.	NY Amount		Perm. Pos.	NY Amount
Intelligence.....	31	27	\$1,531	30	26	\$1,507	30	26	\$1,507	...	...

Long-Range Goal: Provide intelligence liaison, coordination and exchange of information with other government agencies on immigration matters related to national security; to provide intelligence to help operating units enforce the Immigration and Nationality Act (INA); and to assist in the prosecution and conviction of major counterfeiters, alien smugglers and other violators of the INA.

#### Major Objectives:

Provide a focal point for maintaining intelligence liaison, exchange of intelligence and support to other agencies on matters concerning national security and enforcement of the INA.

Fully use the capabilities of the multi-agency El Paso Intelligence Center.

Fully use the capabilities of the INS Forensic Document Laboratory to conduct scientific examinations of questioned documents and to develop technical intelligence for the detection of alien smugglers and other violators of the INA.

Fully utilize the intelligence collection and reporting capabilities of Border Patrol, Inspections, Adjudications and Naturalization Investigations, and Anti-Smuggling to support Servicewide enforcement operations.

Base Program Description: The Central Office Intelligence staff provides program planning, coordination, and direction to INS intelligence activities, and serves as the channel of intelligence with and support to other Federal agencies and to INS management. Requirements of the operational users are identified and collected, reporting and production efforts are re-oriented accordingly. Coordination and liaison are required with the FBI, CIA, U.S. Customs Service, U.S. Coast Guard, FAA, DEA, BATF, Secret Service, Royal Canadian Mounted Police, Department of Defense and other agencies. Intelligence is exchanged and support is provided to other government agencies in sensitive cases involving the entry, departure, and the adjustment of status or naturalization of aliens. The Central Office Intelligence staff also provides a number of high priority intelligence studies and responds to the continual stream of unpredictable events and requests for support from other agencies and INS officers to meet emergent needs.

INS participates with DEA and other agencies in the El Paso Intelligence Center (EPIC) which maintains INS databases on alien smuggling, false claims to U.S. citizenship and reports on the arrival of private aircraft. INS intelligence analysts produce tactical intelligence analyses and special reports on alien smuggling. Current intelligence is disseminated by means of periodic reports and responses to questions from the field. Efforts are underway with U.S. Customs Service and DEA to automate a portion of these databases. The utilization of joint intelligence efforts has proved to be a cost-effective method of producing and disseminating intelligence information.

The INS Forensic Document Laboratory (FDL) became operational in 1979 and has expanded to become an effective tool for combatting document and other fraud schemes. The laboratory provides the capability for the scientific analysis of any form of questioned document evidence developed in the investigation of immigration fraud or other violations of the INA. Additionally, the laboratory produces working aids to assist INS field officers in the detection of fraudulent documents, conducts surveys and research into the technical aspects of document fraud, establishes highly sensitive technical reference resources relating to worldwide travel documents, and develops intelligence information regarding the technical aspects of newly devised document fraud. Laboratory personnel provide expert testimony in criminal actions on administrative hearings, maintain liaison with other government agencies in cases where INS has an interest, and respond to requests for technical assistance in the field as may be required.

Field intelligence officers presently assigned to each INS region provide technical guidance and coordinate the intelligence program within their respective regions. These officers maintain local databases, prepare regional intelligence reports, coordinate the dissemination of intelligence and conduct on-the-job intelligence training in the field.

During 1983 an extensive analysis of the intelligence program was conducted by the Justice Management Division. That study provided a number of recommendations for improving program management and operational effectiveness. The study resulted in a reorganization of the intelligence program, increased staffing to enhance critical areas of operation and management, and more effective analysis and exchange of intelligence information with the field.

Accomplishments and Workload: Accomplishments of the intelligence program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Scientific examination and analysis of Fraudulent Documents Conducted.....	46,009	38,225	42,000	46,200
INS Data Inputs Processed at EPIC.....	166,492	52,307	57,500	69,000
Queries of INS Databases at EPIC.....	36,604	30,164	33,200	39,800
Positive INS Responses Provided to Queries.....	8,147	6,670	7,300	8,800

The Central Office Intelligence Staff received and disseminated intelligence reports from a multitude of sources. The staff provided timely support to the FBI, Secret Service, DEA, FMA, Customs Service and other government agencies on time sensitive matters involving national security and law enforcement related to immigration matters. INS was also represented at various interagency committee meetings for the exchange of intelligence and coordination. Cooperation with the Department of State and with DEA has continued.



On a trial basis, INS has detailed Intelligence officers to Costa Rica, Panama, Guatemala, Nigeria, Mexico, Pakistan, India and the U.K. In each case, cooperation with foreign immigration and law enforcement officials, as well as with airlines personnel, has been strengthened and valuable intelligence has been developed on emerging schemes and routes. Furthermore, INS has detailed Intelligence officers to participate in the Department of State's Regional Fraud Conferences in Madrid, Ottawa, Santo Domingo, Hong Kong and Manila and the Interpol conference in Barbados. In each case this participation has strengthened the cooperation and exchange of information between INS and the Department of State's consular posts and other participating agencies.

At the Central Office, INS Intelligence has expanded its working liaison with Canadian, Australian and British embassies and has hosted briefing sessions for immigration and law enforcement officers from around the world.

At EPIC analytical tasks were identified, and a series of reports specifically tailored to INS needs were produced and disseminated to the field. The Alien Smuggling Index has been automated and is being converted to the Anti-Smuggling Information System (ASIS), which is ongoing to develop intelligence in complex alien smuggling conspiracy cases. The INS intelligence database continues to be a valuable asset to all of the participating agencies at EPIC.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY Amount

Research and Development.... 2 2 \$533 2 2 \$532 2 2 \$532 ... ..

Long-Range Goal: Increase INS capability to rapidly, reliably, automatically, and economically detect, intercept and apprehend illegal entrants before they move into the interior. Develop a formal, more accurate method of estimating the total number of intrusions into the U.S. between ports of entry.

#### Major Objectives:

Develop, apply, and evaluate wide-area surveillance techniques to more effectively cover thousands of miles of border with emphasis on automation, reliability, and low cost.

Develop and apply techniques for improving resistance to fraudulent documents.

Develop a formal method to improve estimation of illegal immigration flow between ports of entry.

Provide liaison with the Federal, Industrial, and university research and development community to stimulate and maintain activity in technology relevant to major issues and high priority interests of INS.

Base Program Description: The Research and Development staff defines problems, develops concepts of technical solutions, fabricates laboratory models of solutions, designs and implements tests and evaluations of potential solutions, directs contractors, initiates and directs interagency technical programs, and provides technical consulting to the Central Office and operating groups.

The objectives of the program are being pursued through in-house, contract, interagency agreement and information interchange activities. These activities cover technical areas of sensors, signal processing, radar, infrared imaging, low light level TV, communications, computers, data processing, video techniques, automatic controls, digital and analog techniques, pattern recognition, simulation, test and evaluation, airborne platforms, and systems analysis.

Accomplishments of the Research and Development program:

In 1984, the fabrication and installation of an imaging and automatic control system was completed. It will serve as a test bed to determine empirically how effective imaging and automation can be in support of linewatch.

A final report was prepared in 1984 in which the effectiveness of infrared imaging techniques were evaluated based on tests conducted in 1982-1983. Evaluations and recommendations were made with respect to types of infrared, reliability, costs, maintainability, and future imaging developments which would be most effective in border control.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	MY	Amount	Pos.	MY	Amount	Pos.	MY	Amount	Pos.	MY	Amount
Construction & Engineering..	17	19	\$13,699	17	19	\$6,072	17	19	\$6,072	...	...	...

Long-Range Goal: Provide adequate facilities for all INS operating units so that they may fulfill their requirements to administer the Immigration and Nationality Act and to provide maximum service to the public.

Major Objectives:

Construct, alter and maintain adequate, attractive facilities as required by the operating elements for effective performance.

Develop a facilities management information system to meet external and internal facilities management information requirements.

Maximize savings through energy conserving structures.

Provide facilities for easy access by the physically handicapped.

Maintain the latest technology and code requirements such as OSHA health and safety requirements in INS facilities.

Provide support for INS long-range goals and strategies related to the design of Federal inspection service facilities at all airports, both within the United States as well as overseas.

Provide support for INS long-range goals and strategies to implement a better environmental atmosphere in the INS work areas.

Provide support for INS operating elements in the form of obtaining, justifying and monitoring Servicewide space programs.

Base Program Description: Construction and Engineering performs the administrative functions related to the INS space and facilities requirements, provides design and construction capability for alteration of existing facilities and new facilities, plans and implements the energy conservation and facilities for the handicapped programs.

Work is performed in the Central Office with input from the field offices and the use of contractors for design and construction. Multi-year funding is required for new construction. The first year funding is for land procurement and design by an architect/engineer; the second year is for construction of the facility.

Space is acquired through the General Services Administration (GSA), by INS lease, by INS owned construction, by Joint INS/U.S. Customs Service construction and through assignment by airport authorities. New inspection facilities are coordinated as necessary with the U.S. Customs Service, the Public Health Service, Department of Agriculture, GSA, state, county, local, airport and foreign authorities. Office space requirements are coordinated with GSA. The development and support for the design of facilities using quality of life office systems techniques and visual identification aids are being actively pursued.

Accomplishments and Workload: Accomplishments of the Construction & Engineering program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Major New Construction Project.....	9	11	10	8
Review Federal Buildings Fund.....	354	354	354	355
Building Audits.....	25	40	40	40
G-68 - Alterations/Repairs.....	100	125	160	150
Airport Projects.....	18	20	15	15
SF-81/144 (Request for Space) Sent to GSA.....	80	80	80	75

1984--

- Initiated planning activities to establish a conceptual basis for developing space standards for the operating elements.
- Developed and initiated activities to establish an automated Facility Information and Control Data System.
- Eagle Pass Border Patrol Station construction has been completed, accepted and occupied by INS.
- The four solar system construction projects have been completed, accepted and are operational.

1985--

- o Automated Facility Management System (FAMS) Pilot Program completed.
- o Automated microfilm drawing file system-completed.
- o The following major new construction projects have been completed:
  - a. Eagle Pass Border Patrol Station
  - b. El Cajon Border Patrol Station
  - c. Chula Vista Staging Area. Border Patrol Station will be completed and activated in June 1985.
- o The INS space standards program has been established and will be completed in this Fiscal Year.
- o Initiated modifications to upgrade the public access areas in the following INS District Offices: (Key Cities Program-- concepts such as seating, counters and super graphics have been developed for the modifications to these offices.)
  - a. Los Angeles, California
  - b. San Francisco, California
  - c. Miami, Florida
  - d. Chicago, Illinois
  - e. New York, New York
  - f. Washington, D.C.
- o Initiated design for the following major new construction projects:
  - a. Ajo, Arizona Border Patrol Station
  - b. Douglas, Arizona Border Patrol Station
  - c. Naco, Arizona Border Patrol Station
  - d. El Paso, Texas Border Patrol Station
  - e. Imperial Beach, California Border Patrol Station
  - f. Potrero, California Border Patrol Station

	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease					
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount				
Field Management & Support..	302	284	\$13,702	301	283	\$13,712	301	283	\$13,712	..	...	...

Long-Range Goal: Provide day-to-day management direction to field units that implement major policy and management decisions for more than one program.

Long-Range Goal: Provide day-to-day management direction to field units that implement major policy and management decisions for more than one program.

#### Major Objectives:

Ensure effective law enforcement and uniform implementation of INS policy, procedure and operational goals; provide efficient service to the public and devise techniques and procedures for responding to regional and local conditions and circumstances. Currently, all mission planning is predicated on accomplishing goal: within the resources available to INS.

Base Program Description: Field Management and Support is responsible for providing line management and staff support for the implementation and operation of the field activities and functions associated with the INS mission of controlling and facilitating immigration, nonimmigrant foreign travel and citizenship. It includes managers and supervisors who are charged with responsibility for and authority over multiple programs and where more than one decision unit exists, at field locations.

#### Accomplishments of the Field Management and Support program:

This program was previously performed under the Executive Direction and Control program. Since the decision unit provides top management direction and support services to field offices, most accomplishments are reported by the operational programs for which they are responsible. Measurable work is likewise reported. The measuring instrument used for this program is the feedback received from the managers at the Central and Regional Offices, DOJ, OMB and Congressional delegations and INS employees at all levels.

Major accomplishments under the direction of this program were the establishment of a remote adjudications center, implementation of an up-front adjudications program and development of a regional productivity system. Specific accomplishments of the program personnel are not quantifiable since this program is made up predominantly of top management officials and their support staff located at the many INS field offices. These officials oversee all facets of INS operations.

1985 Appropriation Anticipated	1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Legal Proceedings.....	223	203 \$11,075	222	203 \$10,894	222	203 \$10,894	...	...

Long-Range Goal: Provide legal representation for the U.S. Government in all cases and matters arising before Immigration Judges and the Board of Immigration Appeals, provide representation for INS in all other contested administrative hearings in which the agency is involved; provide legal advice and support to INS operating personnel on all legal matters and provide litigation assistance on all INS cases being litigated in the Federal courts.

#### Major Objectives:

- Try exclusion and deportation cases expeditiously.
- Provide prompt and professional representation for INS at all other administrative hearings.
- Provide legal counsel to INS officers operating in the field.
- Provide more litigation assistance and achieve more successful results in Federal court litigation involving INS.

Base Program Description: INS attorneys represent INS before Immigration Judges, the Board of Immigration Appeals, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, and Boards of Contract Appeals. Attorneys provide litigation support in agency litigation being conducted in U.S. District Courts, Courts of Appeals, and the Supreme Court. Attorneys also advise the Central Office, Regional Commissioners, District Directors, and Border Patrol Sector Chiefs regarding legal problems arising at all levels of agency operations.

Accomplishments and Workload: Accomplishments of the Legal Proceedings program are presented in the following table:

Item	1983		1984		Estimates	
	1983	1984	1985	1986	1985	1986
Workload Demand Estimates						
Trial Attorney Appearances.....	114,932	157,242	175,000	175,000		
Workload Production Estimates						
Cases Prepared.....	83,542	136,483	150,000	150,000		
Preparation of Legal Briefs.....	13,463	9,542	11,000	11,000		
Legal Consultation -- Litigation.....	...	41,309	50,000	50,000		
Legal Consultation -- INS Branches.....	...	52,853	55,000	55,000		

The Office of General Counsel completed the attorney consolidation program by the end of 1984. As a result, all non-legal aspects of the naturalization program are performed by non-attorney examiners. This allows attorneys to concentrate on legal work, including the legal aspects of naturalization. This has provided better legal services for INS field offices, including border patrol sectors, and has provided more flexibility for the adjudications and naturalization program.

In conjunction with attorney consolidation, INS has further expanded its program of Special Assistant United States Attorneys which had previously existed only in the Southern District of New York. These Special Assistants are INS attorneys assigned to the U.S. Attorney's Office to handle immigration litigation. This results in superior representation of INS and improves and strengthens relationships between the INS district offices and the U.S. Attorneys' Offices. The program has now expanded to include the Eastern District of New York, Southern District of Florida, District of Virgin Islands, Southern District of Texas, Central District of California, Northern District of California, Northern District of Illinois, District of Hawaii, District of Massachusetts, District of Arizona, District of New Jersey and District of Maryland. Additional positions have been added in the Central District of California and the Southern District of New York. This program has contributed to a 39 percent increase in felony convictions for immigration related violations between 1981 and 1984 and has resulted in a 100 percent denial rate in Habeas Corpus petitions brought against the Service in the Eastern District of New York.

As an outgrowth of the litigation task force which was developed to deal with the Haitian litigation in Florida, the immigration litigation responsibilities within the Department of Justice have been transferred from the Criminal Division to the Office of Immigration Litigation within the Civil Division. Four INS attorneys are assigned to this office on a one-year rotating basis. The Office of Immigration Litigation also uses the services of INS Special Assistant United States Attorneys. The General Counsel's Office, the Regional Counsels, and the District Counsels in the field also are heavily involved in supporting the litigation handled by the Office of Immigration Litigation.

The General Counsel's Office is currently engaged with the Executive Office for Immigration Review in providing expanded hearing services, uniform docketing system, and uniform rules of procedure. Performance of the unit has improved as a result of management efficiencies and more personnel in the Immigration Judge program. Representation before the Board of Immigration Appeals (BIA) has been improved through a system of detailing field attorneys to Washington to work as appellate trial attorneys under the direction of a senior General Counsel attorney who serve on a rotating basis. In addition, all of the four to five thousand cases per year coming before the Board are now briefed in the field. Previously, only selected cases were briefed, and many of these were prepared in Washington, D.C. Increased field involvement serves as an educational role for INS field attorneys and has led to better representation which has been commended by the Chairman of the BIA.

The Office of General Counsel has established the Legal Executive Council, consisting of the General Counsel, the Deputy General Counsel, Associate General Counsel, and Regional Counsels. Quarterly meetings are rotated among the Central Office and the regional offices or tied to operational conferences. This council is concerned with attorney management problems, legal precedents, and Service policy. Presentations have been made by high ranking officials, including the Commissioner, at these meetings. Chief Legal Officers from the region where a meeting takes place are also invited, as are Special Assistant United States Attorneys, District Directors, and Sector Chiefs. The communication between the Central Office and the regions, among the regions, and with the districts and sectors has been greatly improved by this effort. These conferences have resulted in instructions on training uniform attorney ratings, revised performance standards, a revised workload reporting system and legal strategies for handling complex Servicewide issues.

**This activity provides for the overall administration and management of the Service.**



1985 Appropriation Anticipated	1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount

Executive Direction & Control. 174 173 \$8,751 169 168 \$8,787 169 168 \$8,297 ... - \$490

Long-Range Goal: Increase the effectiveness of INS through the use of Mission Plan goals and strategies; formulate and coordinate meaningful and consistent policy; provide program direction throughout all levels of the INS; and evaluate policy with a view toward recommending practical changes.

Major Objectives:

Provide for continuity, coordination and control of the overall management and administration of INS;

Direct Servicewide policy and implementation responsibilities;

Improve agency responsiveness through continued enhancement of management systems including:

- maintaining and refining delegation of authority and requirements for accountability for national policy direction, for regional implementation and district and sector execution, including appropriate control of resources;
- continuing to emphasize and institutionalize INS' Management by Objective (MBO) system with further integration between mission and priority planning and systems of resource allocation and control;
- continuing rapid development of information systems to meet the needs of INS management and national immigration policy formulation;

Maintain readiness for implementation of major immigration reform legislation; and

Increase leadership in the formulation of national immigration policy.

Base Program Description: This decision unit addresses the maintenance and enhancement of the capacity for responsive, consistent and effective overall direction of the agency in a situation of expanding workload, rapidly emerging challenges to national immigration policy and increased expectation for control of immigration, service to the public and resource restraint.

Authorization for Executive Direction and Control is contained in 8 CFR 103.1; 8 CFR 2.2; 8 USC 1103; the Congressional Budget Act of 1974 (PL 93-344); OMB Circulars A-11 and A-113; the Budget and Accounting Act of 1921, as amended; and Public Laws 93-502 and 93-579.

**Accomplishments and Workload: Accomplishments of the Executive Direction & Control program are presented in the following table:**

Item	Estimates	
	1985	1986
<b>Congressional Affairs:</b>		
Telephone inquiries.....	31,136	30,000
Written inquiries.....	4,526	5,250
Telephone replies.....	45,547	47,000
Written replies.....	5,244	6,000
<b>Professional Responsibility:</b>		
Major cases received.....	318	310
Major cases completed.....	279	200
Significant dispositions criminal.....	30	25
Major adverse actions.....	28	35
Six month backlog.....	30%	25%
<b>Field Inspections and Audits:</b>		
Field inspections and audit reports demand.....	26	20
External audit reports demand.....	15	10
Field inspections and audit reports production.....	26	20
External audit reports production.....	15	10

Major areas of emphasis have been improved and more effective management of the agency and enhanced operational effectiveness through the concentration of effort on high priority activities and leadership for national immigration policy. Improvement in the organization of the agency's management and decision process have been expanded on by clear structuring of the roles and responsibilities of line and program managers supported by institutionalizing management by objectives, which now implements strategic planning through annual priority objectives integrated with resource planning allocations. Progress in control of the border will continue based on direction of carefully coordinated multi-program resource acquisition and corresponding program development for the Southern Border. Management direction has also insured progress in the Service's broad policy renewal approach to effect the detention and removal of illegal aliens including aggressive and consistent litigation. This strategy is now supported by the completed implementation of a centrally managed organizational structure for INS attorneys. Consistent and comprehensive action for improved service to the public has been initiated and coordinated to reconfigure programs and practices, and concentrating resources to eliminate backlogs and provide to those who operate within the system.

Executive attention to the automation of information and records, so long a problem at INS, has begun to produce concrete results and will lead to further major improvements both in technical management for accelerated acquisition and implementation and in operational program development to fully utilize these new information resources. Management emphasis across the spectrum of INS programs related to proposed reform legislation has produced and now maintains the Service in a posture to effectively implement the new law when enacted.

The Executive Direction and Control program has been involved in the planning for and implementation of the Grace Commission recommendations. The 60 positions, 60 FTE workyears and \$1,600,000 targeted for reduction in 1986 have been reduced from INS' base in the following areas:

	Pos.	FTE	(\$000)
Inspections.....	-1	-1	\$-44
Border Patrol.....	-1	-1	-36
Investigations.....	-1	-1	-39
Anti-Smuggling.....	-1	-1	-42
Detention and Deportation.....	-1	-1	-30
Adjudications and Naturalization..	-4	-4	-118
Refugees and Overseas.....	-2	-2	-96
Training.....	-2	-2	-67
Data and Communications Systems...	-6	-6	-208
Information & Records Management..	-10	-10	-199
Intelligence.....	-1	-1	-46
Field Management and Support.....	-1	-1	-39
Legal Proceedings.....	-1	-1	-46
Executive Direction & Control.....	-6	-6	-226
Administrative Services.....	-13	-13	-367
TOTAL.....	-50	-50	-1,600

Program Decrease: This program decrease reflects the Administration's initiative to reduce administrative costs in management and administration functions throughout the Government.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY	Amount	Perm. Pos.	NY Amount
Administrative Services.....	414	421	\$25,240	401	408	\$25,064	401	408	\$23,778	...	...
Long-Range Goal: Provide the full-range of administrative support services to all INS units on a timely basis in compliance with laws, policies, and external and internal requirements.											
										...	-\$1,266

Major Objectives:

Provide a full-range of personnel and EEO support services, and program direction on a timely basis Servicewide.

Provide a full-range of accounting support services and program direction on a timely basis Servicewide.

Provide a full-range of property management, procurement support and program direction on a timely basis Servicewide.

Provide overall management direction and control for all management programs and the full-range of security, safety and health support activities.

**Base Program Description:** Administrative Services is responsible for the development, implementation, direction, evaluation and operation of administrative support systems and services that meet internal operational and managerial needs and externally mandated requirements. The major functions within this program include: personnel; accounting; EEO; procurement and property management; fleet management; security and health; A-123 program; and other miscellaneous general services, which serve all programs within INS.

The elements within this program are required by and operate under the provisions of 5 U.S.C. 2101 - 8913 on Government Organization and Employees, the EEO Act of 1972 and the Age Discrimination Act of 1967 as amended; Public Law 95-454; 31 U.S.C. 66(a)(2)(4) and (c) and 31 U.S.C. 66b; 28 CFR 0.138, 0.140, 0.159 and 41 CFR supplemented by Department of Justice Orders, General Services Administration, Treasury, General Accounting Office, Office of Management and Budget, and Office of Personnel Management directive and regulations.

Organizationally, objectives are accomplished through policy development, coordination and control at the Headquarters level with delegation of authority to the field as needed to meet management requirements. The accounting, personnel and general services (Procurement and Property Management) components have operating units in the Central Office and counterparts in the four regional offices. Management analysis activity in the regional offices is performed by employees of other programs as a collateral duty. Field activities below the regional level are generally performed by personnel assigned to the field management decision unit and other programs at these locations who devote all or a portion of their time to administrative support services.

Accomplishments and Workload: Accomplishments of the Administrative Services program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Personnel Actions.....	62,474	68,871	70,248	71,653
Position Reviews.....	6,775	6,063	6,669	7,338
Disciplinary Actions.....	388	407	448	496

Item	1983	1984	Estimates	
			1985	1986
Incentive Awards.....	2,152	2,259	2,519	2,771
Transactions Keyed.....	697,168	821,000	862,000	905,000
Bills.....	43,000*	62,000	54,000	56,000
Vouchers.....	113,000*	131,000	137,000	143,000
Collection of Fines, Fees, etc. (000's).....	\$42,000*	\$59,000	\$62,000	\$65,000
EEO Program:				
Complaint Proposed Dispositions Issued.....	...	50	55	55
Complaints Resolved.....	...	70	70	80
Remedial Action Notices.....	...	25	25	35
Employment Practices Revised.....	...	44	40	40
Special Emphasis Programs Managed.....	16	16	16	16
Assistance to Management Officials.....	108	129	150	170
Recruitment Activities (Target Occupations).....	155	156	180	200
EEO Program Evaluations.....	3	10	10	12
EEO Training Provided.....	649	710	1,001	1,200
EEO Reports (to other agencies).....	43	53	55	55
Complaint Allegations.....	...	125	160	160
Employment Practices Monitored.....	...	21	25	25
Policy Directives Issued.....	39	79	65	65
Notices, Memoranda, and Letters Issued.....	2,612	3,425	4,000	4,000

\*The 1983 "actuals" have been revised from the number shown in the 1985 Congressional budget to correct a reporting error.

#### Management Direction (Security, Safety and Health) --

Published INS Safety and Occupational Health Policy.  
 Developed National Security Information refresher training program to be conducted in the regions.  
 Developed and executed training program for regional and field office security officers.  
 Published INS policy implementing E.O. 12356, National Security Information.  
 Published INS policy on the Control and Protection of Limited Official Use Information.

#### Personnel--

Continued expansion of automated data gathering capabilities to streamline personnel functions and automate workload to improve personnel services and support to program manager including implementing an automated tickler system for tracking overseas rotations and developing an employment suitability clearance system. Continued concentration of efforts to improve the quality of the Border Patrol agent hiring process and prepare for upcoming major growth in the Border Patrol through: (1) training of expanded cadre of Border Patrol agents to conduct selection interview panels; (2) developing new recruitment

tools to attract applicants; (3) accommodating expanded workload brought about by a continued major hiring effort resulting from the major 1985 enforcement enhancement; (4) improving the physical examination process to assure consistency in applying medical standards required for employment as a Border Patrol agent; and (5) (a) finalized negotiations on and implemented new labor-management contract for all bargaining unit employees Servicewide except professionals and those assigned to Border Patrol Sectors; and (b) entered negotiations on a new labor management contract for Border Patrol personnel and a new merit promotion plan for bargaining unit employees servicewide.

Assisted Management in: (1) Filling key management level positions, Servicewide; (2) providing personnel resources to meet the Service's expanded automated data processing systems and programs; and (3) providing personnel management advice and assistance in carrying out Service program priorities and initiatives and in responding to issues resulting from a wide review of personnel management by the Office of Personnel Management.

#### Equal Employment Opportunity--

Maintained or increased the minority and female representation in most target occupations. Developed Resource Allocation Plans for implementation of affirmative employment strategies at 24 separate district and sector locations.

Continued an increase in the number of handicapped persons hired by the INS.

Continued to expand the occupations available for handicap appointments.

Improved focused recruitment of minorities and women for vacancies advertised in local commuting areas.

Improved efficiency of EEO recruitment activities by incorporating minority and female recruiters and improving contacts of local EEO staff to reach applicants from various sources.

Increased the representation of Blacks in grade levels 13 through 15 by 20.6 percent in the twelve months ending August 1984.

#### Procurement and Property--

Automated Property Management System at the Central Office and introduced it Servicewide in November 1984.

Initiated action to implement a national accounts vehicle maintenance program Servicewide.

Implementation of INS credit card ordering system for vehicles.

Trained a new requisitioning system for all General Services Branch personnel.

Completed Vehicle Maintenance Study.

Established Voice Communication Unit.

Awarded ACQ II Software contract - 5 years/\$24 million.

Awarded ACQ II Hardware contract - 8 years/\$62 million.

Published Contracting Officer Technical Representative manual.

Automated Standard Transaction Acquisition Network system developed for Administration program.

Revised Operating Sections within Procurement Office to provide immediate skilled and professional support to program offices.

Developed standardized seized vehicle contract for use Servicewide.

Established basic Servicewide policies for detention facility contracts.

Accounting--

Installed automated system (VIPS) for monitoring and controlling the processing of vendor invoices in compliance with the Prompt Payment Act of 1982, in all regions.

Improved the Service of FACS to program/project managers by redesigning monthly reports concerning obligations incurred. Evaluated results of the GSA approved INS six month limited trial usage for Diner's Club Credit Card Program, for the purpose of implementing on a Servicewide basis.

Implemented a GSA sponsored system to utilize travel agencies for procuring airline tickets and securing lodging reservations. Provided training in the use of System 2000 to access FACS, PACS, and VARS to obtain ad-hoc report and research problems with data.

Developed and implemented vendor/vendor Information Retrieval File to support debt collection activities.

Established the Automated Travel Advance System (ATAM) to assist Regional Accounting Offices in monitoring outstanding travel advances.

Establish automated vendor/vendor file (VDF) for accounts payable and accounts receivable.

Program Decrease: The requested program decrease reflects the Administration's initiative to reduce the costs of management and administration functions throughout the Government. This program will be able to absorb these reductions by realigning costs and charging benefitting programs where practical.

Immigration and Naturalization ServiceSalaries and expensesPriority Ranking

<u>Program</u>	<u>Base Program</u>	<u>Ranking</u>
Inspections		1
Border Patrol		2
Adjudications and Naturalization		3
Information and Records Management		4
Detention and Deportation		5
Legal Proceedings		6
Data and Communications Systems		7
Investigations		8
Administrative Services		9
Executive Direction and Control		10
Field Management and Support		11
Anti-Smuggling		12
Training		13
Construction and Engineering		14
Refugee and Overseas		15
Intelligence		16
Research and Development		17



Immigration and Naturalization Service  
Salaries and Expenses  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985 Authorized	1986	
			Program Decreases	Total
Attorneys (905).....	268	280	...	280
Paralegal Specialists (950).....	41	41	...	41
Other Legal and Kindred (900-989).....	347	427	...	427
Contact Representative (942).....	285	295	...	295
Detention and Deportation Officer (IRQI).....	720	817	...	817
Criminal Investigators (1811).....	1,144	1,172	...	1,172
Immigration Inspectors (1816).....	1,467	1,944	...	1,944
Border Patrol Agents (1800-1899).....	2,474	3,232	...	3,232
Other Miscellaneous Occupations (1001-1099).....	6	6	...	6
Social Sciences, Economics and Kindred (1100-1199).....	27	27	...	27
Personnel Management (1200-1299).....	186	159	...	159
General Administrative and Clerical (1300-1399).....	2,423	2,598	-50	2,548
Port Receptionists (1401).....	3	3	...	3
Accounting and Budget (1500-1599).....	154	134	...	134
Medical, Dental and Public Health (1600-1699).....	9	9	...	9
Engineering and Architecture (1700-1799).....	74	123	...	123
Information and Arts Group (1800-1899).....	30	30	...	30
Business and Industry Group (1900-1999).....	37	37	...	37
Physical Sciences Group (2000-2099).....	3	3	...	3
Mathematics and Statistics Group (2100-2199).....	1	1	...	1
Equipment Facilities and Service (2200-2299).....	25	25	...	25
Education Group (2300-2399).....	6	4	...	4
Supply Group (2400-2499).....	82	92	...	92
Border Patrol Pilots (2181).....	63	76	...	76
Transportation (2100-2199).....	9	9	...	9
Other (N6).....	145	145	...	145
<b>Total.....</b>	<b>10,501</b>	<b>11,649</b>	<b>-50</b>	<b>11,599</b>
Washington.....	1,112	1,090	-25	1,065
U.S. Field.....	9,255	10,325	-25	10,300
Foreign Field.....	234	234	...	234
<b>Total.....</b>	<b>10,601</b>	<b>11,649</b>	<b>-50</b>	<b>11,599</b>
Unit/Fort/Maintenance and foreign service locs				

## Immigration and Naturalization Service

## Salaries and expenses

Summary of Adjustments to Base  
(Dollars in thousands)

	Per- PSS	Work- TRBTS	Amount
1985 as enacted.....	11,649	11,709	\$576,417
Supplemental request:			
1985 pay adjustment requested:			Amount
Increased pay costs.....			17,003
Administrative absorption.....			3,302
Net Pay Supplemental.....			9,541
Proposed rescission.....			-847
Workyear savings due to a one-time reprogramming.....		-194	...
1985 appropriation anticipated.....	11,649	11,515	985,031
Adjustments to base:			
Savings resulting from management initiatives:			
Final Phase of management reduction realigning Central and Regional Offices.....	-50	-50	-1,600
Five percent pay reduction.....	-30	-30	-14,030
Total management savings.....	-30	-30	-15,630
Uncontrollable increases:			
Restoration of reduction of change in hourly rate.....	...	...	772
Annualization of 1985 pay raise.....	...	...	7,025
Annualization of additional positions approved in 1985.....	...	49	1,434
Within-grade increases.....	...	...	3,602
Health benefits costs.....	...	...	706
Restoration of workyear savings from one-time reprogramming.....	...	194	...
Federal Employee's Compensation Act (FECA) - Unemployment Benefits.....	...	...	97
General Printing Office (GPO) printing costs.....	...	...	115
General Services Administration (GSA) recurring reimbursable services.....	...	...	312
Federal Telecommunications System (FIS) rate increase.....	...	...	815
Department telecommunications.....	...	...	16
Automated legal research and litigation support services.....	...	...	4
General printing level adjustment.....	...	...	6,499
Foreign allowances.....	...	...	181
Total, uncontrollable increases.....	...	...	27,811
Decreases:			
Nonrecurring costs for equipment.....	...	...	-1,071
Nonrecurring costs for renovation or moving.....	...	...	-1,414
Nonrecurring costs for motor vehicles.....	...	...	-1,710
Nonrecurring costs for full-field investigations.....	...	...	-1,543
Rate decrease for full-field investigations.....	...	...	-340
Decrease in Workers Compensation charges.....	...	...	-20
Total, decreases.....	...	...	-5,988
1986 Base.....	11,599	11,700	\$64,286

Immigration and Naturalization ServiceSalaries and expensesJustification of Adjustments to Base  
(Dollars in thousands)Savings resulting from management initiatives:

	Perm. Pos.	Work- years	Amount
1. Final phase of management reduction realigning Central and Regional Offices.....	-50	-50	-\$1,600
In support of the Administration's efforts to reduce the costs of Federal Government operations, INS is proposing a second and final phase of man- agement reduction as a result of the findings of the Grace Commission. For 1985 INS proposed a management reduction of 150 positions, 150 FTE workyears, and \$4,800,000; for 1986 INS proposes a reduction of 50 positions, 50 FTE workyears, and \$1,600,000.			
2. Saving resulting from five percent pay reduction.....	...	...	-14,030
Savings of \$14,030,000 will be realized as a result of the proposed 5 percent pay reduction in salaries for civilian federal employees.			
Total management savings.....	-50	-50	-15,630

Uncontrollable increases:

<u>Uncontrollable increases:</u>																					
	Perm. Pos.	Work- years	Amount																		
1. Restoration of reduction for change in hourly rate.....	...	...	\$772																		
Section 310 (b) (1) of the Omnibus Reconciliation Act of 1982 required that for 1984 and 1985 pay be computed on the basis of 2,087 workhours. These funds were withdrawn from the 1984 budget. For 1986 the basis for computing pay reverts to 2,080 workhours and restoration of the \$772,000 reduced in 1984 is required to fund the change in the hourly rate.																					
2. Annualization of 1985 pay raise.....	...	...	7,025																		
This provides for the annualization of the January 6, 1985 pay increase contained in Executive Order 12496, dated December 28, 1984. There are 261 compensable days in 1985 and 70 paid days (October 1, 1984 through January 5, 1985) that were not included in the pay raise amount of \$11,768,000. Additionally, \$3,302,000 of the request was absorbed. The calculation of the amount required for annualization is:																					
70/261 x annual amount of pay raise.....			\$3,723																		
1985 absorption of pay.....			3,302																		
Total annualization.....			<u>\$7,025</u>																		
3. Annualization of additional positions approved in 1985.....	...	49	1,434																		
This provides for the annualization of 198 additional positions approved in 1985.																					
<table><tr><th></th><th>Approved 1985 Increases</th><th>Annualization Required</th></tr><tr><td>Annual salary rate of 198 approved positions.....</td><td>\$5,104</td><td>...</td></tr><tr><td>Less lapse (25%)</td><td>-1,276</td><td>\$1,276</td></tr><tr><td>Net compensation.....</td><td><u>3,828</u></td><td>...</td></tr><tr><td>Associated employee benefits</td><td>497</td><td>158</td></tr><tr><td>Total costs subject to annualization..</td><td><u>4,325</u></td><td><u>1,434</u></td></tr></table>					Approved 1985 Increases	Annualization Required	Annual salary rate of 198 approved positions.....	\$5,104	...	Less lapse (25%)	-1,276	\$1,276	Net compensation.....	<u>3,828</u>	...	Associated employee benefits	497	158	Total costs subject to annualization..	<u>4,325</u>	<u>1,434</u>
	Approved 1985 Increases	Annualization Required																			
Annual salary rate of 198 approved positions.....	\$5,104	...																			
Less lapse (25%)	-1,276	\$1,276																			
Net compensation.....	<u>3,828</u>	...																			
Associated employee benefits	497	158																			
Total costs subject to annualization..	<u>4,325</u>	<u>1,434</u>																			

	Perma. Pos.	Work- years	Amount
4. Within-grade increases.....	...	...	\$3,802
<p>This request provides for the increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$3,495,000 and benefits \$307,000 = \$3,802,000).</p>			
5. Health benefits costs.....	...	...	706
<p>The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective the first pay period after January 1, 1984, actual contributions to health insurance increased approximately 8 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$706,000 provides funds for increased costs from pay period No. 2 (\$353,327) to pay period No. 3 (\$380,489) projected for 26 pay periods.</p>			
6. Restoration of workyear savings from one-time reprogramming.....	...	194	...
<p>In 1985, INS was provided resources for its major border enforcement initiative, which included funding for approximately 1,000 additional FTE workyears. Because the positions associated with this initiative were funded at full annual costs, additional resources were not provided for necessary construction projects, e.g. Border Patrol stations to house the additional personnel. Due to the time involved in recruiting and training new personnel, 194 FTE workyears cannot be used in the first year. Consequently, the resources associated with these FTE workyears are available in 1986, on a one-time basis, to provide for the construction of facilities in support of this initiative. In 1986, these funds will be required to pay annual salaries and benefits to employees for a full year.</p>			
7. Federal Employee's Compensation Act (FECA) - Unemployment Benefits.....	...	...	87
<p>No increase for unemployment compensation is expected in 1986. However, there will be a redistribution of estimates based on actual benefits paid</p>			

In a representative fiscal period. This redistribution will increase the 1985 charge of \$869,000 to \$956,000.

	Perm. Pos.	Work- years	Amount
8. Government Printing Office (GPO) printing costs.....	...	...	\$175
The GPO is currently projecting a five percent increase over the 1985 printing cost of \$3,508,892. An additional \$175,000 will be required in 1986.			
9. General Services Administration (GSA) Recurring reimbursable services.....	...	...	212
Reimbursable payments are made to the GSA for heating, ventilation and air conditioning provided in excess of normal working hours and for guard service. GSA has estimated a five percent increase over 1985 charges.			
10. Federal Telecommunications System (FTS) rate increase.....	...	...	879
The FTS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1985 the uncontrollable increase will be \$879,000 over the 1985 base of \$3,721,920.			
11. Department telecommunications.....	...	...	55
Expenses for equipment, installation and commercial tolls (to include message units and directory assistance) have increased dramatically since the divestiture of AT&T and the Bell operating telephone companies. An increase was not requested for 1985 due to the uncertainties surrounding the divestiture at that time. Annualization of the current level of billing indicates that 1985 expenses will be approximately eighteen percent higher than 1984 estimated expenses, requiring an uncontrollable increase of \$55,000.			
12. Automated legal research and litigation support services.....	...	...	4
Centralized JURIS litigation support, and case management services are available for all departmental organizations through the Working Capital Fund (WCF). The WCF is projecting an increase of five percent over the FY 1985 costs of \$86,625.			

13. General pricing level adjustment.....	...	...	\$6,499
<p>This request applies OMB pricing guidance as of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1986 estimates.</p>			
14. Foreign allowances.....	...	...	161
<p>Allowances for Government employees in foreign areas are determined by the Department of State. The State Department anticipates a 11.4 percent increase in 1986. The requested increase of \$161,000 provides 11.4 percent more than the \$1,388,667 budgeted for 1985.</p>			
Total uncontrollable increases.....	...	243	21,811
<u>Decreases (automatic non-policy):</u>			
1. Nonrecurring costs for equipment.....	...	...	-\$1,871
<p>This decrease includes costs for equipment for personnel associated with the 1985 Border Enhancement Initiative (1,000 positions), Congressional add-on (176 positions), and information and telephone service improvements (22 positions).</p>			
2. Nonrecurring costs for renovation or moving.....	...	...	-1,414
<p>This decrease includes costs for transfers and moving expenses for personnel associated with the 1985 Border Enhancement Initiative and Congressional add-on.</p>			

	Perm. Pos.	Total FTE	Budget Auth.
3. Nonrecurring costs for motor vehicles.....	...	...	-\$1,710
This decrease includes costs for motor vehicles for personnel associated with the 1985 Border Enhancement Initiative.			
4. Nonrecurring costs for full-field investigations.....	...	...	-1,563
This decrease includes costs for full-field investigations for personnel associated with the 1985 Border Enhancement Initiative, Congressional add-on, and information and telephone service improvements.			
5. Rate decrease for full-field investigations.....	...	...	-348
The Office of Personnel Management (OPM) has notified users of a \$175 reduction below the 1984 base cost of \$1,550 charged for each full-field investigation. The uncontrollable decrease is calculated on average accession of 1,986 persons per year for a total reduction of \$348,000.			
6. Decrease in Workers Compensation charges.....	...	...	-20
This decrease reflects the billing provided by the Department of Labor for the actual costs in 1984 of employees' accident compensation. The 1986 amount will be \$3,453,000 or \$20,000 lower than the 1985 base.			
Total decreases.....	...	...	-6,926
Total, adjustments to base.....	-50	193	-\$745



Immigration and Naturalization Service

Salaries and expenses

Financial Analysis - Program Changes  
(Dollars in thousands)

Item	Decision Units								Total	
	Inspections		Executive Direction		Administrative Services					
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
Permanent workyears and comp.....	...	...	...	-\$302	...	-\$564	...	...	...	-\$866
Other than permanent comp.....	...	...	...	-49	...	-13	...	...	...	-62
Other personnel workyears and comp.....	-120	-\$5,000	...	-9	...	...	...	...	-120	-5,009
Workyears & comp.....	-120	-5,000	...	...	...	...	...	...	-120	-5,937
Personnel benefits.....	...	...	...	-360	...	-577	...	...	...	-383
Travel.....	...	...	...	-42	...	-341	...	...	...	-68
Communication, utilities and other rent...	...	...	...	-32	...	-26	...	...	...	-98
Printing & reproduction.....	...	...	...	-9	...	-66	...	...	...	-36
Other services.....	...	...	...	-5	...	-26	...	...	...	-216
Supplies.....	...	...	...	-5	...	-211	...	...	...	-31
Equipment.....	...	...	...	-5	...	-26	...	...	...	-18
Total workyears and obligations, 1986...	-120	-5,000	...	-490	...	-1,286	...	...	-120	-6,776

Immigration and Naturalization Service

Salaries and Expenses

Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Grades and salary ranges	1985 Estimate		1986 Estimate		Increase/Decrease	
	Positions & Workyears	Amount	Positions & Workyears	Amount	Positions & Workyears	Amount
Executive Level IV, \$72,300.....	1		1		...	
ES-5, \$70,500.....	1		1		...	
ES-4, \$68,700.....	12		12		...	
ES-3, \$66,232.....	4		4		...	
ES-2, \$63,764.....	2		2		...	
ES-1, \$61,246.....	12		12		...	
GS/GM-15, \$62,262-67,940.....	123		123		...	
GS/GM-14, \$44,430-57,759.....	419		419		...	
GS/GM-13, \$37,599-48,876.....	446		446		...	
GS-12, \$31,619-41,105.....	730		722		-8	
GS-11, \$26,381-34,292.....	1,641		1,630		-11	
GS-10, \$24,011-31,211.....	46		46		...	
GS-9, \$21,804-28,347.....	3,660		3,641		-19	
GS-8, \$19,740-25,662.....	127		127		...	
GS-7, \$17,824-23,170.....	739		738		-1	
GS-6, \$16,040-20,858.....	800		800		...	
GS-5, \$14,390-18,710.....	1,242		1,232		-10	
GS-4, \$12,862-16,723.....	931		931		...	
GS-3, \$11,458-14,896.....	473		473		...	
GS-2, \$10,501-13,216.....	26		26		...	
GS-1, \$ 9,339-11,686.....	2		2		...	
Ungraded positions.....	214		214		...	
Total, appropriated positions.....	11,649	\$304,873	11,599	\$290,328	-50	-\$14,545
Pay above stated annual rates.....	...	1,271	...	1,207	...	-64
Lapses.....	-924	-27,895	-713	-12,995	211	14,900
Net savings due to lower pay scales for part of year...	...	-3,723	...	...	...	3,723
Net permanent.....	10,725	274,526	10,886	278,540	161	4,014
Average ES Salary.....		\$65,475		\$62,202		71
Average GS/GM Salary.....		\$21,790		\$20,701		8.42
Average GS/GM Grade.....		8.43		8.42		

Immigration and Naturalization Service  
Salaries and expenses  
Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

Object class	1965 Estimate 10/1/65	1966 Estimate 10/1/66	1967 Estimate 10/1/67	Increase/Decrease 10/1/67
11.1 Full-time permanent.....	10,725	1274,526	10,886	161
11.3 Other than full-time permanent:				
Part-time permanent.....	192	2,274	192	-48
Temporary employment.....	296	5,956	318	32
Other part-time and intermittent.....	312	4,260	312	-239
11.5 Other personnel compensation:				
Overtime.....	641	12,953	641	-107
Administratively uncontrollable overtime.....	170	14,540	670	437
Other compensation.....	1,768	10,387	1,884	116
1931 Act Overtime.....	279	14,286	139	-120
11.8 Special personal services payments.....	...	296	...	...
Total, workyears and personnel compensation.....	14,873	339,258	14,982	109
12 Personnel benefits.....	46,527	46,619	46,619	92
13 Benefits to former personnel.....	258	255	255	-13
21 Travel and transportation of persons.....	23,874	24,866	24,866	1,012
22 Transportation of things.....	2,780	2,485	2,485	-295
23.1 Standard level user charge.....	25,337	25,337	25,337	...
23.2 Communications, utilities and other rent.....	15,303	16,595	16,595	1,292
24 Printing and reproduction.....	2,800	3,110	3,110	310
25 Other services.....	83,655	80,302	80,302	-3,353
26 Supplies and materials.....	18,883	19,634	19,634	751
31 Equipment.....	22,570	19,676	19,676	-2,894
32 Lands and structures.....	1,473	6,787	6,787	5,314
42 Insurance claims and indemnities.....	19	19	19	...
44 Refunds.....	50	50	50	...
91 Unvouchered.....	582,824	584,096	584,096	1,272
Total obligations.....	4,379	-6,586	-6,586	-2,207
Unobligated balance, start-of-year.....	6,586	6,586	6,586	...
Unobligated balance, end-of-year.....	585,031	577,510	577,510	-7,521
Total requirements.....				
Relation of obligations to outlays:				
Total obligations.....	582,824	584,096	584,096	1,272
Obligated balance, start-of-year.....	63,101	71,405	71,405	8,304
Obligated balance, end-of-year.....	-21,405	-27,541	-27,541	-6,136
Outlays.....	574,510	577,860	577,860	3,350

Immigration and Naturalization Service  
Salaries and expenses  
Status of Construction and Summary of New Facilities Requirements  
(in thousands of dollars)

Project Capacity	Budget Request or Appropriation		Total		Current Status - January 1985		Expected Completion Date	Expected Activation Date
	Planning and Site Acquisition Fiscal Year	Construction Fiscal Year	Amount	Funding	Cost Est. or Actual	to Date		
• Under construction or fully funded:								
• Chula Vista, Ca. Border Patrol Station and Processing Center	1982	1982 - 1984	\$1,250	\$2,675	\$2,675	Funds transferred to GSA - Design work completed - Construction in progress	6/85	6/85
• El Cajon, Ca. Border Patrol Station	1982	1983 - 1984	734	800	812	Construction complete	11/84	11/84
• Eagle Pass, Tx.	1982	1983 - 1984	905	1,021	1,021	Construction Complete	8/84	8/84
• Ajo, Az. Border Patrol Station	1985	1986	794	897	897	A/E (Architect/Engineer) Design Contract Awarded	5/86	6/86
• Naco, Az. Border Patrol Station	1985	1986	457	617	617	A/E Selected Design Contract Awarded	5/86	6/86

Immigration and Naturalization Service

Salaries and expenses

Status of Construction and Summary of New Facilities Requirements  
(In thousands of dollars)

Project Capacity	Budget Request or Appropriation		Construction		Total Funding	Total Current Cost Est. or Actual	Current Status - January 1985		Expected Completion Date	Expected Activation Date
	Fiscal Year	Amount	Fiscal Year	Amount			to Date	Stage of Program		
• Douglas, AZ. Border Patrol Station	1985	225	1986	879	1,104	1,104	...	A/E Selected Design Contract Awarded	5/86	6/86
• Imperial Beach, CA, Border Patrol Station	1985	260	1986	1,258	1,518	1,104	...	A/E Selection in Progress	8/86	9/86
• Potrero, Ca. Border Patrol Station	1985	203	1986	868	1,071	1,104	...	A/E Selection in Progress	7/86	8/86
• El Paso, Tx. Border Patrol Station	1985	261	1986	2,330	2,591	2,591	...	A/E Selection in Progress	9/86	10/86

• Partially funded:

Not Applicable

• Planned Facilities:

Not Applicable

## GENERAL STATEMENT

Mr. EARLY. We are pleased to welcome to the Committee today the Commissioner of the Immigration and Naturalization Service, Alan Nelson.

Mr. Nelson, I see you have a prepared statement, but proceed in your own way.

Mr. NELSON. Mr. Early and Mr. Chairman, thank you very much. It is again a pleasure to be with you and Mr. O'Brien. This is the fourth time I have had the pleasure of appearing before you in support of the Immigration and Naturalization Service budget. I would like to submit my statement for the record and briefly summarize several of the points.

As you indicated, the requested amount, \$577,510,000 and 11,599 positions, includes some reduction. But when you net it out, we are really, for all intents and purposes, talking about a flat budget from 1985. Of course we do appreciate the support of this Committee and the full Congress in the enhanced 1985 budget that the Immigration Service achieved. That, of course, was one of the largest increases in our history, particularly for border enforcement. So, of course, this new budget will continue to provide for them.

One of the reductions is \$5 million in appropriated funds for inspections, but we expect to recover roughly that same amount in airline carrier payments for inspectional overtime pursuant to regulations that are now in effect.

We think it is a reasonable budget, Mr. Chairman. We all are faced with similar issues here in the national deficit concerns and improving productivity. I think we have done a lot in the last few years, and expect to do more, particularly with our automation efforts, to increase our productivity, and at the same time we recognize that our budget levels are ones that are necessary to carry on our duties.

## 1985 BORDER ENFORCEMENT INITIATIVE

I might just touch on a few of the significant areas. I mentioned the border enforcement package. As indicated, it is in place. 1,000 additional positions, 850 in the Border Patrol. As of March 31, several days ago, 523 new Border Patrol agents reported for duty or are in the training cycle. Some are actually coming out onto the field now. A new class starts every two weeks, so that is on target. It is moving along on our schedule, and we will have all of the new hires on board by the end of the fiscal year.

Clearly, there is a need there. We apprehended this last year 1.1 million aliens, primarily on the southern border. We expect 1985 and 1986 calendar years also to be record years. This is an area where these new staffing additions will be of great assistance to our programs and to the country.

## NARCOTICS TRAFFIC

An area that I think deserves special note and we are very concerned, of course, as a country, is narcotics traffic. Often the Immigration Service hasn't received the credit that our fellow agencies have for our role in narcotics seizures. It is interesting in the last

year, that of \$55 million in narcotics seizures at the southern border, our Border Patrol alone seized \$37.5 million.

#### OPERATION COÖPERATION

There are several other aspects, and I won't go into detail. Some of the cooperation with local law enforcement in El Paso, San Diego, has been very effective in border banditry and in other crime issues. We have also done a great deal more working on the anti-smuggling area, and we expect to have increased efforts there.

#### IMMIGRATION REFORM

Illegal aliens come to the United States, Mr. Chairman, primarily, to obtain jobs, and we must do more in the interior. As discussed with Mr. O'Brien just before we started, the need for immigration reform legislation is paramount for this Congress to deal with. But even aside from that, we are doing a great deal more in trying to target our interior enforcement resources toward the higher-paying jobs, the higher-impact cases, the cases where there is greater fraud, and so forth.

This last year, 48 percent of the aliens we apprehended were in higher-paying jobs, significantly above minimum wage.

#### SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS

Another area that we can certainly talk more about, that we are very proud of, as we have introduced, and improved our data processing capability, is the beginning of the SAVE program, a systematic verification for entitlements to ensure that those aliens who are obtaining benefits, welfare and other, are doing so legally. Illegal aliens, by definition, are not entitled to such benefits. There are tremendous cost savings to the Federal Government, state governments, as well as, of course, a fair and effective program. This along with our other enforcement operations at the interior and at the border, gives us the ability, I think, to do a much more effective job in a very difficult area.

We are working also with employers. It is really the flip side of employer sanctions, to have employer cooperation, to work with us to be more effective in doing all they can to avoid hiring or retaining illegal aliens.

#### FRAUD AND SMUGGLING

There is a great deal of fraud out there in terms of document fraud, marriage fraud, and that kind of thing. Again I think some efforts there have been significant. These are problems that we will need to continue to deal with.

I mentioned a little earlier the anti-smuggling efforts. In 1984 we apprehended nearly 18,000 alien smugglers, and seized 8,775 vehicles valued at \$20 million. We project another increase in alien apprehensions, prosecutions and convictions, in the years ahead. We have also done a great deal, with which we are very pleased, in better coordination and cooperation with the United States Attorneys.

Also, we again do not get the attention, particularly in the context of the drug problems we have with Mexico, but we have received a great deal of increased cooperation in recent years with Mexican authorities, in alien smuggling, adoption fraud, in avoiding third-country nationals from going through Mexico, and we want to continue to build on that.

Similarly with Canada, we have had some very good working relationships. Mr. Kisor here, our Associate Commissioner for Enforcement, has been deeply involved, as have others, in improving our relationship there.

#### DETENTION

In the detention and deportation area, we have, as we apprehend more aliens, a need for more detention space. A lot of efforts have been underway there. I think one of the most dramatic, Mr. Chairman, has been that the INS has clearly been the leader in the use of contract detention facilities.

I was in Houston just last week, where we have a facility that is under contract. You would never know it is a detention facility. It is an industrial park, an outstanding facility, basically at half the price that we are able to detain people, and it is very, very well run. We have increased our capacity in contract facilities to 700; that is about a quarter of our total detention space, and we expect the further use of this. We think it is a good way to go in concert, in balance, with the government detention facilities.

In last year's budget, we had the Oakdale, Louisiana, long-term detention facility. That is basically on schedule. It is scheduled for opening sometime around the end of this fiscal year, and this will, of course, give us increased capacity that is so needed.

Again, we expect an increase, probably 250,000 aliens to be detained during this coming year, and about 100,000 of those will be in non-INS facilities, which includes state and local facilities.

#### ADJUDICATIONS ACCOMPLISHMENTS

One of the areas, Mr. Chairman, that we think we have done the most effective job on and we are particularly proud of is that we have met our obligation, our commitment to the Congress and others to reduce substantial backlogs in the naturalization and asylum adjudication cases. We have accomplished a great deal, and we are going to move toward elimination of those, we hope this year. If we don't eliminate them, we expect to get close.

For example, in naturalization we reduced the backlog 62 percent last year. That was despite a 23 percent increase in caseload. Adjudications were reduced 12.5 percent, asylum by almost 90 percent, largely again through good management, our own MBO system, balance adjudication system, remoting cases to outlying areas, airports and remote centers and just some better efficiencies because it has been done basically with existing resources.

We project a continuing increase in naturalization cases, over 400,000 in the next year. This last year we naturalized about 225,000, which was an all-time high.



#### ADP OPERATIONS

A lot of the efficiencies we accomplished have been due to the ADP operations. Again good support from Congress, which we appreciate, over the past number of budgets, gives us that capability. We think we have really turned the corner on ADP improvement. We have developed systems that are operational in the deportable alien situation, the naturalization, the legal.

We are getting our whole central index system squared away and operational. We are using computer support for the anti-smuggling program, students in school where you track foreign students, the non-immigrant arrivals-departures, all visitors to this country who are not permanent residents, and an automated lookout system at our airports. We think have been very effective in these areas, and we expect to expand the use of ADP in the next year. For example, on the non-immigration information system, we currently have a data base of over 36 million on-line records.

#### TELEPHONE INFORMATION CENTERS

Related to the ADP has been our telephone service center. Like airlines use to make reservations, a centralized type of answering system that can handle large volumes of telephone traffic and do it efficiently and avoid a lot of the waiting. This handles the simple questions of people on the phone.

We have an Eastern Center that has been in operation now for I believe over a year, covering New York, Newark, Philadelphia and Boston, and we have just recently opened a Western Center covering the California cities of Los Angeles, San Francisco, San Jose, and San Diego. Those together have been of dramatic help to us in our workload processing.

We have a tape library where people can get tapes that give them the basic information. We expect during 1986 2.6 million calls, which will be one-third of our total telephone inquiries. Needless to say, without that we would really be overwhelmed, so we think we are in a good situation there. Also we have done a great deal on the whole record backlog area and cleaning up our records. That is ongoing.

In ADP we are going into an equipment purchase mode. We have reached and awarded a contract which has resolved some litigation and we are going forward now with the major purchase of new terminals and other equipment.

#### LEGAL ACCOMPLISHMENTS

I might deal briefly with some of the legal accomplishments. Sometimes, again, this doesn't get attention, but I think the work that we have done to turn our whole legal operation around, both what the INS Legal staff is doing but also the entire Department of Justice, the Office of Immigration Litigation, which is in the Civil Division, the United States Attorneys, and also coordination with Criminal Division and the other bureaus, has been very effective.

We had five cases before the Supreme Court in the last term, and prevailed in all of those. We have collected over \$2.2 million in fines and collection debts that had been sitting.

You are well aware, of course, of the recent successful negotiations and the beginning of the return to Cuba of the Mariel criminals. That was certainly a lot of good legal work there.

Also I think we have done a good job in the lawyer's procedurally not doing a lot of the examinations work that can be handled by nonlawyers. We have been working closely with immigration judges and the Executive Office of Immigration Review to improve that whole hearing system.

As I mentioned earlier, the special assistant program we have with the U.S. Attorneys has been dramatic, going from one several years ago to I think it is 14 or 16 at the present time. We have had a dramatic increase in felony convictions resulting in the immigration area from this kind of coordination.

In conclusion, Mr. Chairman, again I appreciate the chance to again be before you and Mr. O'Brien. I look forward to responding to your questions. We do feel this is a good budget for us and reflects the needs of INS for the coming year. We do again want to thank you and Mr. Osthaus for their fine efforts in support of our operation.

Thank you.

[The prepared statement of Mr. Nelson follows:]

DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT OF THE COMMISSIONER  
ALAN C. NELSON  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE  
JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before you in support of the Fiscal Year 1986 budget request of \$577,510,000 and 11,599 positions for the Immigration and Naturalization Service. This budget is in keeping with the need to do our part to reduce the national deficit and to improve productivity in government operations. We expect to do more during 1986 with roughly the same number of personnel and supporting resources available to INS during this budget year.

The budget which is before you today is a current services budget. Consistent with the Administration's policies, savings are expected to result from several management initiatives. As the second phase of implementation of the Grace Commission recommendations, a reduction of \$1,600,000, 50 positions, and 50 FTE workyears is contained in this budget. These savings will be achieved through a realignment of the roles and responsibilities of personnel in the Central and Regional Offices.

The budget also contains a decrease of \$5,000,000 in appropriated funds for the Inspections program. This reflects an anticipated increase in

reimbursements resulting from changes in regulations that INS is currently pursuing regarding airline carrier payments of inspectional overtime at certain airports.

The INS Management Team has been greatly involved in the development of improved and more economical methods of managing resources and providing required administrative support. It will concentrate in the future on planning and carrying out measures designed to increase employee productivity, reduce costs and achieve greater efficiency.

#### Border Enforcement

INS is making excellent progress in putting in place the increases authorized in this year's budget. As of January, 1985, 370 Border Patrol Agent Trainees had reported for duty. A new Border Patrol class starts every two weeks this year, and the classes are running on schedule.

Last year a record breaking 1,138,566 aliens were apprehended. Ninety-three percent of these were at the Southern border. We believe that Fiscal Years 1985 and 1986 will also be record years in view of the continuing unrest and economic problems in Mexico and Central America.

Of the \$55.6 million in narcotics seizures made at the border in 1984, the Border Patrol alone seized \$37.5 million. Joint drug seizures by INS and Customs officers amounted to \$9.8 million.

In an effort to control border crime, a unique foot patrol has been formed in El Paso, where police officers and Border Patrol agents walk specific "beats" together. A similar program, using San Diego Police officers, has been established in Chula Vista, California, to reduce violence by border bandits. To further the fight against increased border crime and to meet unanticipated emergencies, in 1984 the Service created a Border Patrol Tactical Team (BORTAC) of specially trained and equipped agents who are ready to respond to unusual situations on an emergency basis.

During 1986 we project that the Border Patrol will apprehend 1,320,000 deportable aliens and 105,600 smuggled aliens. As the new members of the expanded Border Patrol become more experienced, we believe their presence will deter many aliens from attempting to enter the U.S. illegally.

#### Interior Enforcement

In Fiscal Year 1984, Investigations' principal objectives were to concentrate two-thirds of their resources on high-impact-level cases, emphasize apprehensions of illegal aliens in high-paying jobs, focus anti-fraud efforts on the acquisition of benefits by illegal aliens, and initiate task force operations to target major fraud facilitators and document vendors. The new Case Management System, which concentrates resources on priority objectives, greatly aided Investigations in achieving these goals.

More than 40 percent of all illegal aliens apprehended by Investigators at employment sites were in high-paying jobs. Efforts to forestall the fraudulent receipt of entitlement benefits exceeded expectations and resulted in actual savings of \$114 million -- mostly in the Western Region -- through the Systematic

Alien Verification for Entitlement (SAVE) Program. We are beginning to see the benefits of this program and expect additional states to become participants during the coming year. California, Colorado and Illinois joined the effort in 1984. The program has the potential to save \$10.7 billion in Federal funds nationwide if all States check with INS before allotting welfare and other benefits to applicants.

Successful investigations resulted in nearly 1,200 major notorious employers agreeing to cease employing and/or hiring illegal aliens. These operations reduce the job "pull" for illegal aliens, a significant factor in causing illegal immigration.

INS has initiated a program called "Operation Cooperation" which encourages employers to cooperate with the Service by not hiring illegal aliens. It has been quite well received by many employers who have been contacted. Participants are those who do not knowingly hire illegal aliens. The program does not reach those employers who habitually and purposely hire illegal aliens. We will continue to deal with this group through our interior enforcement efforts.

INS has worked with other Federal and State agencies in document task forces to target major fraud facilitators and counterfeit document vendors. These activities have resulted in the successful arrest and prosecution or denial of benefits in 2,600 cases involving marriage, labor certification and visa fraud.

Alien Smuggling

Alien smuggling activity is expected to be greater during the coming year, due in part to continuing economic growth in the U.S. Major investigations involving interagency and interregional task forces resulted in the indictment of 29 persons operating a multimillion dollar smuggling ring from Yugoslavia, of five labor contractors and harvesters in Florida, and of 31 principals engaged in smuggling individuals of seven different nationalities.

In 1984, INS officers apprehended 17,917 alien smugglers and seized 8,775 vehicles valued at \$20 million.

Because we are using resources more efficiently, we project Servicewide apprehensions of an estimated 20,500 alien smugglers in FY 1986. Record numbers of prosecutions and convictions are anticipated. Increased emphasis will be given to close coordination with the U.S. Attorneys in efforts to improve the success rates for prosecutions as measured by convictions.

A total of 7,500 alien smugglers are expected to be prosecuted during 1986. Based on our experiences with prosecutions, we anticipate about 2,800 felony convictions and 4,400 misdemeanor convictions. Sentences are expected to total 63,000 months (5,250 years). These results will have a significant impact on the smuggling problem.

Continuing to work with officials of the Mexican and Canadian governments will be a priority. For example, as a result of cooperative efforts, the Mexican government has assigned special units at interior road checks. This has resulted in the apprehension of a number of Central American aliens before they

could be smuggled across the U.S. border. Changes in Canadian law now make it possible for smugglers in Canada who violate U.S. laws to be prosecuted in Canada for those offenses.

#### Detention and Deportation

The Detention and Deportation program detains and deportes aliens who are in the United States in violation of the law. A major priority of the Service in 1984 was to increase detention capabilities. In an effort to curtail costs, the Service contracted for detention centers instead of new construction. Contract facilities are now being used in Houston, Denver, Los Angeles, and San Diego. Their total capacity is 700, which is a substantial addition to the existing space in the Service's processing centers (2,139). Further use of contract facilities will be arranged in the future as needed in locations where detention requirements are projected to exceed available space. New INS facilities were opened or existing buildings renovated in Boston, Houston, Denver, Washington, D.C., Miami and Port Isabel, Texas.

The construction of the joint INS/Bureau of Prisons 1,000-bed facility in Oakdale, Louisiana is moving ahead on schedule and should be completed later this year. It will be used for longer term detention cases which will free up space in our border facilities for quick turnaround cases.

During 1986 we anticipate that a total of 250,000 aliens will be detained. Of this number, 100,000 are expected to be detained in non-INS facilities including State and local jails.



Service Backlog Reductions

Largely due to management improvements and assistance from the Inspections program, adjudications backlogs were greatly reduced in the past year, and all backlogs are expected to be eliminated in FY 1985.

The naturalization/nationality backlog was reduced 61.7 percent nationwide, despite a 23 percent increase in new applications over the previous year. Adjudications backlogs were reduced 12.5 percent, and asylum backlogs by 89 percent.

This was effected mainly through our Priorities Management System, which sets numerical goals for each region to reduce severe backlogs, and a new Balanced Adjudications System, under which certain types of applications are sent either to ports of entry for completion by inspectors during standby time or to Remote Adjudications Centers. As a result, port of entry completions increased 23 percent and Remote Adjudications Center completions increased 45 percent.

Working with the courts to secure additional hearings, INS arranged naturalization proceedings for more than 225,000 persons in 1984, an increase of 20.4 percent over the previous year. In Miami, at one of the largest naturalization ceremonies ever held, nearly ten thousand persons became citizens.

In 1986 adjudications and naturalization employees assisted by other Service personnel will complete the adjudication of an estimated 1,172,000 cases, and will process a projected 423,500 naturalization petitions. This is

a heavy workload which has been steadily increasing each year. It has been possible for INS to meet this challenge due to the commitment of managers and staff members to improve productivity. ADP improvements, recent efficiency legislation and regulatory changes also have contributed to this success.

This is an important example of what has been done to handle a very large and growing processing workload using existing personnel and resources more efficiently.

#### Data Processing Improvements

As a result of efforts which have been carried out during the last two years, the implementation of the Service's ADP Plan is making excellent progress. New systems have become operational and are being maintained.

Throughout 1984, our Information Systems office worked with other Service components to develop three primary systems under the Integrated Case Tracking umbrella: the Deportable Alien Control System, which tracks illegal aliens; the Naturalization Casework System; and the Legal Case Tracking System. These automated systems eliminate duplicate and nonessential data and assure the use of consistent data capture and presentation techniques.

The Central Index, which will replace the Master Index, was installed on a prototype basis and will serve as the focus of all systems data on persons of interest to the Service. As noted earlier, using information available through the Central Index, the Systematic Alien Verification for Entitlement (SAVE) Program became operational in California, Colorado, and Illinois in 1984.

Two systems for tracking aliens became operational in 1984. The Anti-Smuggling Information System, which collects information on known and suspected smugglers, is in force in Swanton, Vermont and at the El Paso Intelligence Center. The Student/Schools System, which became operational in September, identifies and tracks students and schools authorized to enroll nonimmigrant students for INS and other government enforcement agencies.

Several systems have proved their usefulness and been expanded, including the Nonimmigrant Information System -- which has eliminated backlogs in logging arrivals and departures -- and the National Automated Immigration Lookout System, which is now online Service-wide.

During the new budget year, further implementation of the long-range ADP Plan will be carried out. The systems to be installed at additional locations are: Legal Case Tracking, Adjudications Casework Support, Naturalization Casework Support, Deportable Alien Control, Anti-Smuggling Information, and Marriage Fraud Identification. These are examples of the types of efforts planned and under way to provide greater support for Service operations. The net result will be the provision of versatile, accessible information to increase employee productivity and improve the use of existing resources.

The Nonimmigrant Information System (NIIS), the only automated means the Nation has to account for foreign visitors, diplomats and students, has been expanded. It now contains a database of over 36 million on-line records, and we have the capability to load 350,000 alien records in a twenty-four hour period. In addition to providing the current status of nonimmigrants, NIIS

provides reports on violators and other statistical information, further proof of its value in support of Service operations.

During 1984, Records Systems continued to develop new services to the public and improve past activities. Among these are the establishment of two permanent Telephone Service Centers, one in the East serving four major northeastern cities (New York, Newark, Philadelphia, and Boston), and a second in the West serving four California cities (Los Angeles, San Francisco, San Jose, and San Diego).

The "Ask Immigration" tape library systems were added for offices in Atlanta, Detroit and Seattle in 1984, for a total of sixteen located in major cities. In Miami, client-activated "Ask Immigration" phone equipment and self-service video equipment were installed, enabling the public to receive immigration information through unattended direct-dial phones and other means. "Ask Immigration" allows INS to answer many more questions regarding policies and application procedures without additional personnel. During FY 86 it is expected to receive 2.6 million calls, roughly one-third of the telephone inquiries expected to be received by INS. If "Ask Immigration" were not available, our contact personnel would simply be overwhelmed.

To assist other offices in streamlining records management, our Records Office set up a 17-member team of highly trained specialists who provided on-site records clean-up assistance, thereby reducing workloads, improving file systems, and eliminating records backlogs.

A major ADP equipment contract has been awarded, involving the acquisition and installation of up to 1,500 computer terminals, 800 printers, 20 microcomputers, and 2 main-frame computers by the end of 1985. This expansion will permit INS to make wider and more efficient use of automated systems for Naturalization Casework, Deportable Alien Casework, Legal Casework, and Anti-Smuggling Information. The increased access to these and other systems will allow our employees to process up to 75 percent of the INS workload at a field level where service to the public will be improved and made more effective.

#### Legal Accomplishments

During the past year the legal accomplishments of INS have been substantial. The Service successfully litigated five cases in the 1984 Supreme Court term. The efforts of the Office of General Counsel resulted in the collection of \$2,236,055 and referral to the U.S. Attorney for collection debts totaling \$2,653,797. Litigation has been successfully completed which will now allow for the return to Cuba of Mariel Cubans found to be undesirable due to criminal and behavioral problems. This effort has been costly and time-consuming. Its conclusion will allow the use of our legal resources in other areas. The attorney consolidation program (discussed before this Committee) has been completed. As a result, all non-legal aspects of the naturalization program are performed by non-attorney examiners. This allows attorneys to concentrate on legal work, providing better services for INS field offices and more flexibility for the adjudications and naturalization program.

The General Counsel's Office is currently engaged with the Executive Office for Immigration Review in providing expanded hearing services, a uniform docketing system, and uniform rules of procedure. The performance of the Executive Office and the immigration judge program has been enhanced as a result of management improvements.

INS has further expanded its program of giving assistance to U.S. Attorneys which had previously existed only in the Southern District of New York. The outcomes are already significant -- the program has contributed to a 39 percent increase in felony convictions for immigration related violations between 1981 and 1984.

INS will continue its efforts to contain costs, improve productivity, and increase efficiency. The members of the Service's management team are well aware of the importance of these activities which will ultimately contribute to reducing the federal budget deficit.

I feel that the budget which is before you for examination today reflects the needs of INS, at a minimum, to cover the ongoing personnel and operational support needed to carry out the Service's diverse statutory responsibilities and to realize fully the potential of changes which have been made in recent years.

I would like to express my thanks to you, Mr. Chairman, and to the members of the Subcommittee, for the support which you have given to INS. With it a great deal has been and continues to be accomplished.

I will be pleased at this time to answer any questions you or the other members of this committee may have.

## CONSTRUCTION OF BORDER PATROL STATIONS

Mr. EARLY. Mr. Nelson, you are requesting a language change which would allow \$6,586,000, which was appropriated in fiscal year 1985, to remain available until expended. The justifications state that this change is requested in order to permit the use of these funds at various Border Patrol station for construction and repair projects. Where are these projects located, what is the status of these projects, and when do you expect to complete them?

Mr. NELSON. You are correct, Mr. Chairman. Certainly the idea that we needed, along with this increase in staff, to do some upgrading and construction of new facilities, and there were funds available in the first year to do that. I will ask Mr. Arnold to respond.

Mr. ARNOLD. The facilities are in the Border Patrol station in El Paso Texas, the Border Patrol station at Potrero or El Campo, California, another at Imperial Beach, Chula Vista another at Ajo, Arizona, one at Douglas, and one at Naco, Arizona.

Mr. EARLY. What is the status at each?

Mr. ARNOLD. They are in differing stages of constructions. The reason for requesting the no-year funding is that we can't build all these facilities in 1 year because of the architectural and engineering work that has to precede construction.

Mr. EARLY. When do you expect to complete them?

Mr. ARNOLD. It is our thought that they can be completed in 2 years, but one or two of them might drag off into the third year.

Mr. EARLY. Frequently construction projects tend to go on and on. Why shouldn't we put a time limit on the use of these funds as an incentive to get them completed?

Mr. ARNOLD. I am not sure I can answer that question, Mr. Chairman. These are not extraordinarily complex construction activities. They are Border Patrol stations made necessary by the fact that with the increases we had this year in Border Patrol we need larger facilities to house the people and the attendant garages and the rest, but they are not complex construction projects.

Our efforts have always been to construct them as rapidly as possible. Certainly, if the Committee chose to put a 3-year limit on the projects at this stage, we think we could complete them in 3 years. I have no reason to think we couldn't complete them in two.

## PAY RAISE SUPPLEMENTAL

Mr. EARLY. Mr. Nelson, what are the total requirements associated with the 3.5 percent increase granted federal civilian employees for fiscal year 1985? How much of this requirement are you absorbing?

Mr. NELSON. Again I would like to ask Mr. Arnold if he could answer that.

Mr. ARNOLD. Yes, sir. The pay raises, as I recall, were estimated for our agency to amount to \$13 million and a little more. Our request is for about \$9.5 million, so we are absorbing the difference.

Mr. EARLY. In what areas are you absorbing these costs, and aren't they going to have a programmatic effect?

Mr. ARNOLD. They will be distributed across the agency, distributed really by head count; and, yes, sir, I think you would have to

say that to the extent that you absorb pay raises, you cut into some kind of operational activities, but we certainly believe that we can handle this level of absorption of the pay raise.

As you know, Mr. Chairman, I remember no year in the last 10 where a pay raise supplemental was covered entirely by supplemental funding. The agencies are normally expected to make various efficiencies to cover a part of that, and we believe we can in this case.

Mr. EARLY. I agree that that is what has happened. But I don't think it is a good system.

Mr. ARNOLD. Yes, sir.

#### PROPOSED RESCISSION

Mr. EARLY. In what specific areas will you be cutting expenses related to the proposed rescission of \$947,000? Does this involve a separation of personnel?

Mr. ARNOLD. No, sir. Those are the Section 2901 Deficit Reduction Act savings, and in our case the \$947,000 is mostly \$777,000 in travel, with the remainder divided between public information and, as I recall, publications. I have the breakdown here exactly.

Mr. EARLY. Will the rescission have a significant impact on your program operations?

Mr. ARNOLD. It should have none.

Mr. EARLY. Why don't you put that breakdown in the record.

[The information follows:]

#### *Breakdown of Proposed Rescission*

Public affairs .....	\$70,000
Printing and publishing .....	100,000
Travel and transportation .....	777,000
Total .....	947,000

#### 1985 CONGRESSIONAL INITIATIVES

Mr. EARLY. For the fiscal year 1985, the Congress provided \$6 million above the budget request. Could you provide for the record a listing of how that increase has been applied?

Mr. NELSON. Yes, Mr. Chairman.

Mr. EARLY. How many positions were funded with these additional resources.

Mr. NELSON. The breakdown of those are as follows. In anti-smuggling, 14 positions; inspections, 80; adjudication and naturalization, 76; and legal, six.

Mr. EARLY. How many of these positions have been filled?

Mr. NELSON. These have all been filled.

Mr. ARNOLD. Mr. Early, if I could add, the Deficit Reduction Act was \$777,000 for travel, \$100,000 in printing costs, and \$70,000 in public affairs.

#### AMOUNTS PAID TO ALIENS FOR WORK

Mr. EARLY. For the fifth year in a row you requested a change in the language which would increase the amount paid to aliens who work while in INS detention facilities. The present rate is \$1 per day and you propose to increase this to \$4 per day. Why do you



keep requesting this change when Congress has turned you down five items in a row?

Mr. NELSON. I guess we just feel that it is something that does make some sense. It is a low rate, and we think there probably ought to be some flexibility there, so we are proposing this.

Mr. EARLY. What is the amount of money involved in that?

Mr. NELSON. I don't have the figure on that offhand.

Mr. ARNOLD. We would have to provide that, Mr. Chairman.

Mr. EARLY. Can you give me a ballpark figure?

Mr. ARNOLD. It is a very small amount of money. It is essentially the activities that take place in three of our larger detention facilities. I would be surprised if it exceeds \$20,000 in all, but I will certainly check it. If I could add to the Commissioner's comment, the Bureau of Prisons pays institutional inmates from 11 to 38 cents an hour, and at 38 cents an hour that works out to \$3.04 for an eight-hour day, the same kind of labor that our detainees do.

I am told that in the Bureau of Prisons, those who are in key activities can double the amount that they earn through these sorts of labors, which would mean in some cases the Bureau of Prisons is paying \$6.08 a day for an eight-hour day. We don't view our detainees and the kind of work that is being done in these facilities as different from what is being done by Bureau of Prisons inmates.

Mr. EARLY. Do you have money in this budget to fund that?

Mr. ARNOLD. It is covered under the operating expenses of the detention and deportation decision unit, so, yes, the money is in here now. If they can't get detainees to volunteer to do this clean-up work and the other kinds of work that have to get done around detention facilities, we have to hire people to do it, and we can't hire people on the local economy to work for \$1 a day, or \$4 a day, which is the rationale for trying to raise the authorization here to be able to pay enough to at least permit these folks to buy a couple of packs of cigarettes a day.

[The information follows:]

#### COST OF PAYMENT TO DETAINEES FOR WORK PERFORMED

In FY 1984, INS spent \$131,000 for the pay of detainees. If the rate of \$1 per day were increased to \$4 per day, annual expenditures would increase to approximately \$524,000.

This estimate that the same number of aliens would volunteer for work. In actuality, there would probably be more volunteers at the higher rate.

To provide a cost comparison on detainee labor vs. the cost of a contract, several assumptions must be made. These include:

Expenditures of \$131,000 equate to 131,000 days of detainee labor. For purpose of comparison, the assumption is made that a detainee workday equals six work hours.

It is assumed that a trained contractor workforce is more efficient than detainee labor, and the same amount of work can be accomplished in half of the time.

Much of the work is menial labor and the assumption is made that the contractor would be paid minimum hourly wages.

Taking into consideration the above assumptions, the following comparison is offered. Work performed by INS detainees (786,000 work hours) could be done by contractor labor in 393,000 work hours. At minimum wage, the cost to the Government would be \$1.3 million for contract labor or 2.5 times the cost of detainee labor at \$4 per day.

## UNIFORM ALLOWANCE

Mr. EARLY. You are also requesting language to allow the purchase of uniforms for the Border Patrol and other immigration officers without regard to the current purchase price limitation. The justifications are identical to those enacted by the U.S. Customs Service in 1985. Are you just trying to keep up with the Customs Service?

Mr. NELSON. Sometimes that is hard to do, Mr. Chairman.

Mr. EARLY. But you are trying to keep up with the Bureau of Prisons in what we pay the prisoners for labor?

Mr. NELSON. We think that the uniform allowance is just, a reasonable cost of doing business in this day and age, that there are some restrictions there that make it difficult for our people. We think that is a fair type of thing.

Mr. EARLY. Why don't you seek a change in the current purchase price limitations through substantive legislation, rather than seeking exemption under current law?

Mr. NELSON. That is a good question. I don't know if we have an answer to that. Mr. Arnold?

Mr. ARNOLD. The only reason I can think of, Mr. Chairman, is that there are so many uniformed employees that to get that kind of legislative change through would require, in effect, legislation affecting perhaps the whole government, and it is very difficult. In our case the uniform allowance is presently \$125 a year. To uniform a new Border Patrol agent with the uniform and all the leather and all the things that he is required to have when he first starts out, costs, I am told, about \$1,200 a year. These costs fall on the employee.

The Border Patrol uniforms, the uniforms that the employees are expected to replace every year, run about \$400. All we can pay or all we have been able to pay in the past is \$125. We have other uniformed employees whose uniforms are not quite as expensive as the Border Patrol, but our detention officers and our inspectors on the line are also required to wear uniforms, and the present allowance does not cover the cost of those uniforms.

## 1986 BUDGET REQUESTS TO THE DEPARTMENT AND TO OMB

Mr. EARLY. What was your budget request to the Department of Justice and to OMB?

Mr. NELSON. For fiscal year 1985?

Mr. EARLY. 1986.

Mr. NELSON. I don't have those figures handy, Mr. Chairman. We can provide those.

Mr. EARLY. You don't have them?

Mr. NELSON. I do not have them. If we could provide that.

Mr. EARLY. Provide that for the record, both to Justice and to OMB.

[The information follows:]

## Tracking INS 1986 Budget Request

PROGRAM	SPRING PLANNING BUDGET			OMB BUDGET		
	Request to DOJ	BA	Pos.	Approved by DOJ and Submitted to OMB	BA	Approved by OMB and Submitted to Congress
<b>ENFORCEMENT:</b>						
Inspections	1,454	76,180	1,531	79,766	1,531	\$72,917
Border Patrol	3,715	164,354	3,706	163,411	3,706	160,529
Investigations	1,225	56,732	1,115	51,239	1,021	42,579
Anti-Smuggling	388	16,771	387	18,468	331	15,030
Detention & Deportation	1,370	101,691	1,310	90,343	1,151	77,711
Subtotal	8,152	417,728	8,049	403,227	7,740	368,766
<b>CITIZENSHIP &amp; BENEFITS:</b>						
Adjud. & Natz.	1,346	49,429	1,295	47,068	1,240	44,974
Refugees & Overseas	64	7,797	66	6,630	66	6,554
Subtotal	1,410	57,226	1,361	53,698	1,306	51,528
<b>IMMIGRATION SUPPORT:</b>						
Training	61	6,576	59	7,510	59	6,526
Data & Communications	174	64,018	191	62,358	191	49,736
Info. & Records Mgt.	1,197	38,278	1,161	37,037	1,161	36,162
Intelligence	44	2,406	43	1,961	30	1,507
Research & Development	3	1,042	3	741	2	532
Construct. & Engineering	25	25,479	22	17,020	17	6,072
Field Mgt. & Support	305	14,150	301	13,954	301	13,712
Legal Proceedings	322	13,558	383	15,712	222	10,894
Subtotal	2,131	165,507	2,163	156,293	1,983	125,141
<b>PROGRAM DIRECTION:</b>						
Exec. Dir. & Control	196	10,308	169	8,822	169	8,297
Administrative Services	417	29,275	401	26,402	401	23,778
Subtotal	613	39,583	570	35,224	507	32,075
<b>TOTAL</b>	12,306	680,044	12,143	648,442	11,599	577,510

**INCREASES REQUESTED**

**Mr. EARLY.** Provide for the record a list of the increases which you were seeking that were eliminated from the budget request that were submitted.

[The information follows:]

1986 OMB REQUEST - PROGRAM SUMMARY  
(Dollars in thousands)

Decision Unit	Items Requested	1985 Proposed Supplemental		1986 Program Increases		1986 OMB Request	
		Pos.	FTE Amount	Pos.	FTE Amount	Pos.	FTE Amount
Inspections.....	SLUC - New space acquisition (Way Mesa and San Luis Ports of Entry) and shortfall	...	...	...	...	1,531	1,873 \$79,766
Border Patrol.....	New aircraft, aircraft operations, replacement vehicles	...	...	...	...	3,706	3,651 163,411
Investigations.....	New positions, reduction of lapse, new vehicles, SLUC shortfall	...	...	94	301 7,846	1,115	1,090 51,239
Anti-Smuggling.....	New positions, task forces, surveillance equipment, SLUC shortfall	...	...	56	42 3,359	387	352 18,468
Detention and Deportation.....	Support to Investigations, SLUC shortfall, activation of Jaldale and contingency site health care system.	...	...	159	118 12,244	1,310	1,306 90,343
Adjudications and Naturalization....	New positions to improve quality assurance (QA) and reduce backlog, SLUC shortfall	...	...	55	42 1,071	1,295	1,261 47,068
Refugee and Overseas	None	...	...	...	...	66	117 6,630
Training.....	Support interior enforcement, QA and improvement of service to public, activation Oadale, consolidation past gains	...	...	...	...	59	59 7,510
Data and Communications Systems.....	New ADP hardware and communications equipment, DOJ SN Data Center, microwave network, terminals for vehicles	...	...	...	...	191	183 62,358
Information and Records Management	SLUC shortfall	...	...	...	...	...	...
Intelligence.....	New Positions in field intelligence, EPIC and Forensic Lab	...	...	13	10 460	43	36 1,961
Research and Development.....	New position, contract and travel funds	...	...	1	1 207	3	3 741
Construction and Engineering.....	Expansion of existing facilities (Florence SPC, district offices), replacement of facilities (four traffic check points and two ports of entry/residences), one new traffic check point, renovation and modernizing district offices, non-recurring reimbursements to GSA for non-standard renovations and new positions.	...	...	5	4 10,648	22	23 17,020
Field Management and Support.....	None	...	...	...	...	...	...
Legal Proceedings...	New positions to support Investigations/Deportation and Deportation/OIR, Oadale and to reduce clerical shortfall	...	...	161	102 4,776	383	305 15,712
Executive Direction and Control.....	None	...	...	...	...	...	...
Administrative Services.....	Support to interior enforcement, QA and improved service to the public, activation Oadale, consolidation past gains	...	...	...	...	169	168 8,822
Total.....		...	\$2,492	544	620 157,164	401	408 26,002
		...	...	...	...	17,143	12,328 \$648,442

## RESTORATION OF RAIL SERVICE IN MAINE

Mr. EARLY. Mr. O'Brien.

Mr. O'BRIEN. Thank you, Mr. Chairman.

Good to have you back, Mr. Nelson.

Mr. NELSON. Good to be here, sir.

Mr. O'BRIEN. Let me get to something special that we learned about yesterday. The Chairman, myself and other Members of the Committee received a letter from Congresswoman Snowe with respect to a problem they have in Maine. Are you acquainted with that?

Mr. NELSON. In general terms I am, yes.

Mr. O'BRIEN. The issue is the restoration of rail service. Apparently, the Canadian Rail, VIA, has a track running from Montreal to Halifax, crossing north central Maine. According to immigration law, it requires immigration checks. Plans to restore the Montreal-Maine-Halifax line by June 1, 1985 have been stymied by lack of funds available to the INS to hire additional immigration officials.

It is the estimate of the Congresswoman that a supplemental appropriation for FY 1985 would be required in the amount of \$140,000 and \$180,000 for FY 1986. Is there something that you could do within the agency pending your getting your request for reprogramming to us, to handle that problem?

Mr. NELSON. Yes, sir. Certainly. First let me indicate that the figures you gave are also my figures, I understand. That is the cost factor of \$140,000 and then \$180,000 thereafter. It also is indicated that apparently the service that had existed for many years was cancelled by the Canadians in 1981 and now we are talking about a restoration. We always run into these kinds of issues, of course, on staffing and where the staffing should be, how you best divide up your resources.

I know our region that covers the eastern area has been concerned that they don't have the resources. I know that issue is being looked at as to whether there are other options. I honestly don't know at this point as to whether there are. Again, there has to be an evaluation of the priorities. I can't be more definitive about that now, because I know, again, it is under review. It is questionable at this point, I know from our field people, as to whether this is a justified expenditure without the additional resources, but I think, as we have indicated to Senator Mitchell and others who have inquired, we certainly will take a hard look and see whether there is any operational ability. But we will have to decide—

Mr. O'BRIEN. I might also point out that the county involved is an economically depressed area needing revitalization, and restoration of the service is apt to provide jobs and revenue from an increased tourism trade.

I wonder, Mr. Chairman, if I could submit this letter for the record?

I would hope, Mr. Nelson, that you could come back to us relatively promptly on this. I think there is a sense of urgency about it.

Mr. NELSON. Yes.

Mr. O'BRIEN. We would like to accommodate the Congresswoman if we can.

Mr. NELSON. We will certainly look into it very thoroughly and will certainly be back to you as soon as we can.

Mr. EARLY. We will include the letter in the record.

[The letter from Ms. Snowe follows:]

1200

COMMITTEE:  
FOREIGN AFFAIRS  
JOINT ECONOMIC COMMITTEE  
SELECT COMMITTEE  
ON AGING

WASHINGTON OFFICE:  
122 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-6308

OLYMPIA J. SNOWE  
2d DISTRICT, MAINE

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

March 28, 1985

DISTRICT OFFICES:  
●  
FEDERAL BUILDING  
202 HANLOW STREET, ROOM 208  
BANGOR, ME 04401  
(207) 848-0432  
●  
148 MAIN STREET  
AUBURN, ME 04210  
(207) 788-2461  
●  
187 STATE STREET  
PORT OFFICE BOX 122  
PISCATAQUIS, ME 04780  
(207) 784-8124

Representative George M. O'Brien  
Ranking Minority Member  
Subcommittee on Commerce, Justice,  
State, and Judiciary  
H310 Capitol  
U.S. House of Representatives  
Washington, D.C. 20515

Dear George:

I am writing to request your assistance in appropriating supplemental FY 1985 funds and FY 1986 funding for the U.S. Immigration and Naturalization Service (INS), in order to restore rail service to Maine.

Canada has committed \$10 million to restore VIA Rail, the national passenger train service, which was eliminated by the Canadian government in 1981. VIA Rail has a track route running from Montreal to Halifax, crossing north-central Maine. According to U.S. Immigration law, this line requires immigration checks by U.S. immigration officials. However, plans to restore the Montreal-Maine-Halifax line by June 1, 1985, have been stymied by the lack of funds available to INS to hire additional immigration officials.

According to Elmer Hasker, Assistant Regional Commissioner for the INS Eastern Regional Office in Burlington, Vermont, four U.S. immigration officials would be required for the purpose of immigration checks. The wages, benefits, and overtime costs for each immigration official would cost \$37,000. Transfer costs for the four immigration officials would total \$80,000. As such, the fiscal 1985 supplemental funding that would be required to hire four U.S. immigration officials for the Montreal-Maine-Halifax route would be \$140,000. In addition, for fiscal 1986, \$180,000 would be required.

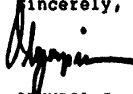
Resumption of rail service in Piscataquis County would have a significant economic impact on the Maine communities through which the train will pass. Piscataquis County is an economically depressed area in dire need of revitalization, and restoration of this rail service will provide jobs and revenue from an increased tourism trade.



1201

Your assistance in providing this additional funding for INS will be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Olympia", with a horizontal line extending to the right.

OLYMPIA J. SNOWE  
Member of Congress  
2nd District, Maine

OJS:pj

1202

Resources for Maine

In response to your concerns regarding the Canadian VIA rail system, I have looked into the matter and directed that adequate resources to meet the needs be assigned from Jackson and Vanceboro, Maine for the remainder of FY 1985 and for FY 1986.

## SYSTEMIC ALIEN VERIFICATION FOR ENTITLEMENT PROGRAM

Mr. O'BRIEN. I understand that my home state, Illinois, joined the alien verification for entitlement program in 1984. Have we wound up with any savings from that program?

Mr. NELSON. Yes, sir, a great deal. I had the pleasure of being in Chicago in November, at which time Governor Thompson had a press conference announcing some results from the program. It has been underway—as a matter of fact Illinois was one of the first states to start it on a pilot basis; it has had the program with unemployment insurance. This press conference with the Governor was to announce the results of that and then the indication that it would be expanded into the welfare programs.

I don't have the exact figures available, but off the top of my head it seems to me they talked in terms of \$50 million savings in cost avoidance for one year in Illinois. We think it is a very, very effective program there, and I know Governor Thompson has been very willing to talk to other governors to try to get the program expanded into other states.

## INS TAPE LIBRARY SYSTEM

Mr. O'BRIEN. On page 10 of your statement you have some detail with respect to the "Ask Immigration Tape Library Systems." How does that work?

Mr. NELSON. Basically—and someone else can help me out if I am a little off. But the call comes in. You have an operator in our facility. The operator has a whole bank of tapes, so if the caller says, "I need an immigration form to do such-and-such, to immigrate or to bring a relative in." Then the telephone operator has all these tapes there, and he or she will say, "Just a moment" and then plug the tape in. Then that gives the tape-recorded message. If the caller is not satisfied, they can stay on the line and be handled personally, but that is basically it.

Mr. O'BRIEN. And that apparently has been pretty successful?

Mr. NELSON. We think very successful. Again, it is a good use of personnel. Most of the calls, probably half to two-thirds, are going to be for routine things. "What hours are you open? What form do I need to do such-and-such? Where are you located?" This kind of thing. That can be handled by these taped responses.

## BORDER PATROL TACTICAL TEAM

Mr. O'BRIEN. Would you give us a little information about the Border Patrol Tactical Team. Have you had any unanticipated emergencies or unusual situations since its creation?

Mr. NELSON. We have created the group, Border Patrol Tactical Team, known as BORTAC, I think about a year ago. We have trained 45 officers. We plan to probably expand it to about 100. These people are kept in their regular duty stations throughout the country, brought in for some specialized training in riot control, terrorism, emergency medical, the kind of situations that can develop, unfortunately, in difficult situations, which require some special expertise. The training is very thorough. It is similar to

what the Marshals and the FBI SWAT teams have. We have been very pleased with that.

To date—and again it is an emergency response organization—we have not had to use them. They have been on call twice, just on a standby basis, once at the Olympics when of course there was concern that fortunately never occurred on terrorist activity, and the other time when they had the problem in Pedras Negras a few months ago that there might be a riot. But it is only an alert.

Mr. O'BRIEN. Sort of at the ready but you have never had to call them?

Mr. NELSON. That is right, sir.

#### NARCOTICS SEIZURES

Mr. O'BRIEN. Do you have easy coordination between Customs and INS with respect to narcotics seizures?

Mr. NELSON. It is hard to say easy. The relationships have been difficult for many years, although I guess I should clearly qualify it. There have been difficult problems, but on the other hand, on a day-to-day operational basis, at most locations the agencies work well together.

On narcotics, as I indicated in my statement, we have done probably the lion's share of the narcotics seizures at the border, and very often don't get the credit for it. I think we are going to need to do that, not that we are all out there looking for credit, but I think when the work is being done it needs to be done jointly and credit given accordingly.

#### FUNDING DECREASE IN INSPECTIONS PROGRAM

Mr. O'BRIEN. You are requesting a decrease of \$5 million from the inspections program. Why are you doing that?

Mr. NELSON. As indicated, sir, in the statement, this basically is a wash. We anticipate receiving approximately \$5 million in increased revenue pursuant to regulations for carrier-reimbursed overtime, and that \$5 million would offset the \$5 million reduction in the budget, so the service level would be the same, which is a source of funding changes.

Mr. O'BRIEN. I think that is all, Mr. Nelson. Thank you, Mr. Chairman.

Mr. EARLY. Mr. Nelson, referring to Mr. O'Brien's last question on \$5 million, will that proposal require enactment of legislation?

Mr. NELSON. No, sir. That has already been accomplished by regulation, the increased fees are there.

Mr. EARLY. What kind of reaction have you received from the airlines?

Mr. NELSON. As I recall—and someone else may add to this—that when we went to formal publication in the Federal Register, that there were maybe a few negative comments, but overall I don't believe there was any strong negative reaction by the carriers.

I guess like anybody, they may not like to pay more, but I think our user fees have generally been looked at as very reasonable. A couple of years ago we substantially raised them, and I think brought in something like \$25 million to the Federal Treasury,

bringing these fees to a more reasonable level. I think this \$5 million is in that category.

Mr. EARLY. What would be the impact of this proposal on the traveling public? Will the proposal result in significant increases in delays at the airports involved?

Mr. NELSON. It should not. It should not in any way result in delays.

Mr. EARLY. Mr. Rogers.

#### NUMBER OF ILLEGAL ALIENS IN U.S.

Mr. ROGERS. Thank you, Mr. Chairman.

Can you tell us the estimated current level of illegal aliens in the country?

Mr. NELSON. Of course, Mr. Rogers, as we all know, that is extremely difficult to do, so any figure is going to be a general estimate. You hear ranges anywhere from two million as a low to 20 million as a high. The most accepted range, if you will, is somewhere probably in the five to six million range at any one time. We think that is probably conservative but relatively accurate. That is a one-time figure. Of course, there is a net flow in and flow out, but we think that is relatively accurate.

#### MAGNET FOR ILLEGAL IMMIGRATION

Mr. ROGERS. Are there any signs that we are less of a magnet for illegal immigration?

Mr. NELSON. No. I would say probably, if anything, to the contrary. We are as much, if not more, of a magnet. It all depends on so many things, of course, but as political, economic and social conditions are in trouble in other areas, this will attract more people here. Another magnet is communications. More people see television, hear radio; transportation is easier; it is easy to get here. So all of these are push factors that are increasing.

Now, hopefully, because of the kinds of things that we have been doing in terms of enhanced border enforcement due to the increased staff we have, and some of the other programs, we are doing a better job of deterring illegal immigration. Our projection in the next year or so is that we will see roughly the same level of illegal flow as we have had in the last few years, another good reason to strongly support the Simpson-Mazzoli legislation.

#### JOB DISPLACEMENT

Mr. ROGERS. How many jobs are illegal aliens displacing now, would you estimate?

Mr. NELSON. Again, Mr. Rogers, I wish I could give you a figure. You will get a strong debate on that issue, and I believe the answer is where people want to come out as to whether there is no job displacement or whether there is 100 percent job displacement. It is certainly my belief, and I think I reflect the entire Immigration Service, that there is a significant job displacement.

It is going to vary, on locale, types of jobs, work levels, availability of workers, and all that, but there is no question there is a displacement factor. And one of the things we are trying to do either

by legislation or even administratively put is more effort by the Employment Service, by private agencies, to get American citizens and lawful aliens into jobs when we remove illegal aliens. This has been a problem where illegal aliens are apprehended, taken off and either today or tomorrow other illegals will get into those jobs. We need to do more in that area.

Mr. ROGERS. You would at least say that there is a significant impact on employment?

Mr. NELSON. In our opinion, absolutely.

Mr. ROGERS. Or unemployment?

Mr. NELSON. Right.

#### PROJECT SAVE

Mr. ROGERS. Tell us about Project SAVE.

Mr. NELSON. Yes, Mr. Rogers. We spoke briefly about that. If I could just answer it a little more broadly for a moment, to put it into perspective, we think there are three—and it really goes to our previous questions—three thrusts to deal with illegal immigration. On border enforcement, I think we have done a lot there to improve that. On the job market magnet, which to me means sanctions, we need legislation, better cooperation and a lot of other efforts. The third area is the entitlement verification.

People are coming here for jobs, or if they get laid off, like any of us, they will often try to seek entitlements, welfare, employment, and so forth. We know there are a lot of illegal aliens getting these. Systematic verification for entitlements is a very simple system now that INS is computerized to a greater extent than it has been. We allow for appropriate safeguards and privacy and what have you, States and other entitlement agencies match into our computer their list of aliens applying for benefits, so it insures that legal aliens are getting the benefits to which they are entitled, and at the same time it prevents the illegal aliens from drawing benefits to which they are not entitled. We think it has worked extremely well in Illinois, Colorado and California. We are working with a number of other states as well as the Federal agencies, and we hope that we can expand this. There are very significant dollar savings involved which I know the Committee is interested in, as we are.

Mr. ROGERS. To what extent is it being used?

Mr. NELSON. As I indicated, it is in three states, California, Colorado and Illinois. We are hopeful of getting another 7 to 10 states signed up in this year, certainly some of the larger ones, and we want anyone who can. We got support from OMB, HHS, the other Federal agencies, as well as Justice, and we are going to do everything we can to expand it, because it is a good program. It is fair. It makes sense, good state management, good Federal management. It certainly meets the President's objectives of making fraud, waste and abuse reforms in the various programs.

#### PROMOTION OF SAVE PROGRAM

Mr. ROGERS. What have you done to promote this program?

Mr. NELSON. For example, last week I was in Texas, met with Governor White, had several conversations in recent months with

Governor Graham in Florida. I know we have had contacts with the Governor of Missouri, the Governor of New Jersey, and a number of other agencies in many other states. We are from a local INS and from headquarters and through any contacts with the National Governors Association, getting out there.

As I mentioned, we have full support of OMB. We have briefed the top staff at OMB. Attorney General Smith a year ago gave us the full green light to go forward with this. Attorney General Meese is supportive of it, so we are really going at it at all angles.

Mr. ROGERS. Why would a state not want to use this program?

Mr. NELSON. There is very little reason, in our opinion. There have been a few objections in terms of privacy concerns, but we have thoroughly researched all legal applications. The SAVE program is certainly authorized by the Deficit Reduction Act of 1984, and the provisions in the Immigration and Nationality Act. It meets, we are convinced, all of the legal requirements.

Another factor is that the cost is minimal. It costs the state something like \$25,000 to \$30,000 to hook up because all they are doing is paying up the hookup fees to our computers, so we don't think there is any valid reason. In some cases there are some regulations that have to be changed, or operating procedures. But we think anybody looking at it objectively would have to realize that it makes sense for all the reasons that I indicated.

Mr. ROGERS. It seems to me that if it's such a good deal that you would have a lot more buyers. What is the holdup? What is the problem?

Mr. NELSON. I don't know, Mr. Rogers, that there has been a holdup. It has just been in the last six months that we have really been out on a pro-active marketing basis, and like anything, it takes time. And the bureaucracy is involved, so it doesn't seem like it has been unduly slow. It's just the process of going through these contacts and all the various issues.

#### COST AVOIDANCES THROUGH SAVE

Mr. ROGERS. What can we expect in the way of savings in welfare costs if that program were fully utilized?

Mr. NELSON. Again, savings figures, of course, are always somewhat speculative, we have to realize, but just to give you a broad target here, and the way we calculate it is as follows: If we take the 6 million illegal alien figure, that comes out to be about 2.5 percent of our nation's population, and if illegal aliens access benefits at the same rate that citizens do—and there is no reason to believe they do not; in fact, in Illinois and in a few places there have been a higher level of access by illegal aliens.

If you took all benefit programs, Federal, state and so forth, and all states participated, you could get as high as a \$10 to \$11 billion saving in one year.

Now, if you break that down into the more normal kind of entitlement programs that people would utilize, unemployment, welfare, food stamps, Medicaid and so forth, we still figure that if all states participated in it, \$3 billion-plus a year might be saved, so there are dramatic savings or cost avoidance possibilities.

Mr. ROGERS. What can we do to help promote the concept? It seems to me it is a very simple and worthwhile project that everyone ought to be in. What can we do to help?

Mr. NELSON. Certainly, Mr. Rogers, we do appreciate your words of support, and in any way you can, we would appreciate it.

Mr. ROGERS. I am not here as a chamber of commerce.

Mr. NELSON. No.

Mr. ROGERS. I am here trying to save about \$10 billion of taxpayers' money, so it is not that I am here wanting to make a speech on behalf of it.

Mr. NELSON. No.

Mr. ROGERS. I am here trying to see what we can do to get you to move more quickly on it.

Mr. NELSON. I will throw out several suggestions. Certainly in the legislative arena anything that can be done I think would be helpful, even though we have legal authority, but even more specific authority would be good. I understand OMB—I don't think I am giving away any trade secrets here—I think they are in the process of trying to get some legislation that would probably mandate a lot more of this kind of program. Now it is permissive, and I think that support of that would be very, very good.

Mr. ROGERS. So that if a state refused, under that theory, to institute this kind of a program, at least on its own or in cooperation with you, they could be denied certain welfare participation?

Mr. NELSON. I would presume that would be true.

Mr. ROGERS. Would that be the thrust?

Mr. NELSON. I would presume so. I don't know all of the ramifications, but it would become a requirement, so obviously there would be some pressure behind it.

Mr. ROGERS. You say OMB is looking at that type of a—

Mr. NELSON. I know they are considering proposing legislation in that arena, not just for SAVE but tying into the whole process to be sure that there are proper controls. It makes good sense. The other possibility certainly would be inclusion of language within a new immigration reform bill, to both authorize—I think the intention as well as the legislative mandate could be helpful.

#### POTENTIAL USE OF APPROPRIATIONS LANGUAGE FOR SAVE PROGRAM

Mr. ROGERS. What about language in the appropriations bill?

Mr. NELSON. In appropriations, to the extent that we could have that also would be very helpful.

Mr. ROGERS. It may be more than just helpful.

Mr. NELSON. Right.

#### ILLEGAL SMUGGLING ACTIVITY

Mr. ROGERS. What kind of problem do we have, if at all, in the amount of smuggling into the country of goods with aliens or by aliens?

Mr. NELSON. Clearly, again, it is hard to give an exact ratio, but there is no question that those people are involved in illegal smuggling activity, often have dual purposes, aliens, drugs or other contraband. I think we are seeing probably more of that, as indicated in our testimony.



Our immigration officials, the Border Patrol in particular, apprehend two-thirds of the narcotics at the southern border. Again sometimes this will tie in with the alien smugglers. As we are tightening up our efforts, and as I mentioned earlier in the testimony, our working relations with the U.S. Attorneys, with the other Federal agencies, with the Mexican and Canadian officials, and so forth, are giving us a lot better clout than we have had in the whole anti-smuggling area.

Mr. ROGERS. In 1986 I am told you are anticipating that 18,000 smugglers will be apprehended, which is 19 percent more than in 1983, but you are estimating there will be only 6400 prosecutions. And of those, you are estimating 5500 convictions, 2800 felonies and 4400 misdemeanors. How come we aren't anticipating prosecutions of more?

Mr. NELSON. I don't know the exact answer, Mr. Rogers. Certainly there is a bit of a flow problem sometimes somewhere in the pipeline prior to prosecution. Of course, some are declined by the U.S. Attorneys, for valid reasons. Again I think our relationship there is good that we are not concerned with a declination problem as a policy issue.

In some cases you lose your witnesses or don't have your evidence, so I think, again, the good news that we think we are showing is we are picking up in numbers of apprehensions, numbers of convictions, length of jail times, numbers of vehicles received, and the dollar value thereof.

Mr. ROGERS. Would stiffer penalties help?

Mr. NELSON. I am not really in a position to go into the whole penalties thing. Certainly as an ex-prosecutor I would say yes, that is certainly one factor among others that needs to be looked at. No question there is a deterrent value in my opinion. As I say, I am not specifically familiar with all of the sentencing aspects, but it is certainly worthy of consideration, not only the Congressional action in the sentencing but, of course, the judicial action in carrying it out.

I think we have seen a definite increase there both in our activity and, I think, the judicial response to the smuggling. It is a very, very serious and inhumane crime.

#### INS/CUSTOMS OVERLAP

Mr. ROGERS. Are we making headway in eliminating overlapping jurisdictions between you and Customs?

Mr. NELSON. I will be candid, at the working level it is usually pretty good. We have had some coordination problems and we are trying to work on that. There are some problems in that regard, but I think we are working on it, and hopefully will clear those up.

#### FUNDING FOR INFORMANTS

Mr. EARLY. Mr. Nelson, do you have money in this budget to pay for any informants?

Mr. NELSON. Informers? I am not sure. We do, as of course any law enforcement organization will do, use informers in certain circumstances, particularly in the smuggling operations. I am not in

the position to say what is in there or where it would come from, but we do within certain limits.

Mr. EARLY. How much money do you have in your budget to buy information?

Mr. ARNOLD. We don't have a line item for payments to informants in the budget. We will have to provide it for the record based on the amount that we have spent in prior years. We don't have a line item. We will have to provide it, because we don't have it in these papers that are here, Mr. Chairman.

Mr. EARLY. Is there any duplication in that?

Mr. ARNOLD. Duplication? No, sir.

Mr. EARLY. How do you guarantee there is not duplication in buying information?

Mr. ARNOLD. Each of the law enforcement agencies in the Department of Justice buys information, pay informants, and we don't pay the same informants.

Mr. EARLY. Let me ask the Department of Justice?

Mr. NEILL. They are referring to, I believe, the confidential fund payments, which we audit for them after payment has been made. We look at those payments.

Mr. EARLY. You audit this fund?

Mr. NEILL. My staff audits them before certification for payment by the Attorney General.

Mr. EARLY. Are there any restrictions or limitations on how much they can pay each informant?

Mr. NEILL. It is up to \$50,000, I believe. If that is not correct, we will correct it for the record.

Mr. EARLY. Have you ever paid that much money for information?

Mr. NELSON. I don't know.

Mr. NEILL. No.

Mr. EARLY. It doesn't seem to me that this information would be difficult to come across.

Mr. NELSON. I would doubt very much that we have, but I don't know the breakdown.

Mr. ARNOLD. I think, Mr. Chairman, we should distinguish between routine payments for information which goes through the accounting system and the vouchers are processed and tracked; that is the normal process for the purchase of information or the purchase of evidence from a participating or cooperating individual.

The other thing that is being referred to—and perhaps it is our fault for confusing it—is the payment of confidential expenditures that does not go through the normal accounting system but goes straight to the Department of Justice for audit. In the event—and I would have to make up an example—of the payment to perhaps a high official of a foreign government, we would not want that information processed through our regular accounting system, and that is treated differently. I think that is the one to which there is reference to the \$50,000.

Mr. EARLY. As I understand it, it is all audited?

Mr. NEILL. Yes.

Mr. ARNOLD. But we do have funds in our operating budget for the normal payment of information, payment of awards and re-

wards. We could provide it very easily, but I think we do not have a line item in the budget.

Mr. EARLY. Supply for the record how much money you have in the budget for informants other than the monies that are audited.

Mr. ARNOLD. Yes, sir.

[The information follows:]

#### PAYMENTS FOR INFORMATION

Payments for information to INS informants are generally made through the normal financial vouchering process. As part of INS financial management procedures, these expenditures, as well as all other financial expenditures, are audited. In 1984, \$225,593 was spent on payments for information.

In addition, INS can obligate up to \$50,000 for confidential vouchers. The Department of Justice audits these amounts to ensure that they have been paid and that they do not exceed the limit. In 1984, \$35,852 was paid for confidential vouchers. These payments were made as follows:

Central Office.....	\$10,614
Eastern Region.....	22,013
Southern Region.....	2,160
Northern Region.....	0
Western Region.....	1,065
Total .....	35,852

#### GRACE COMMISSION REDUCTIONS

Mr. EARLY. In your statement you refer to a reduction, Mr. Nelson, of \$1,600,000 and 50 positions which you are proposing in this budget as the second phase of the Grace Commission recommendations. Where will these reductions be taken, and what impact will they have on program operations?

Mr. NELSON. As with the prior year, we think these are appropriate reductions. We think those are Grace Commission recommendations that actually came out of discussions with us that are reasonable, and are going forward with that. I have the breakdown here. Do you want me to read it for the record?

Mr. EARLY. Please.

Mr. NELSON. These are the reductions: Inspection, one; Border Patrol, one; Investigations, 11, Anti-smuggling, one; Detention and Deportation, one; Adjudication and Naturalization, four; Refugees and Overseas, four; Training, two; Data and Communication Systems, six; Information and Record Management, 10; one each for Intelligence, Field Management Support and Legal Proceedings; five for Executive Direction and Control, and 13 for Administrative Services.

Mr. EARLY. Are you suggesting that these Grace Commission reductions are not going to effect efficiency?

Mr. NELSON. As I indicated earlier, Mr. Chairman, I think that what we have done and, we are very proud of it, is through increased data processing and better management programs, we have greatly increased efficiencies. As indicated, in some of these other areas with the backlog reductions with existing staff that we have done a lot. We all can be more efficient.

We think these cuts, as you can see, are relatively minimal and spread out through the operations. These are reasonable cuts, and

do meet some of the kinds of efficiency concerns that all of us must have.

Mr. EARLY. The Grace Commission suggested that these reductions should be made in people that aren't needed. But in every one of the agencies you spoke about, you suggested that there is a great need to do little more with less resources.

Mr. NELSON. I think we can always say we can always use more people and more dollars. I think we have to look at the balancing. Obviously the Congress and the administration have to look at total budget as well as departmental and agency budgets. We think that we have done well, that we have received good support in our funding and personnel, and that these are these kinds of fine-tuning cuts that are appropriate and reasonable.

#### MANAGEMENT AND ADMINISTRATION REDUCTIONS

Mr. EARLY. You are proposing a reduction of \$1,776,000 in fiscal 1986 in executive direction and control and administrative services. Last year we gave you 850 new personnel for the Border Patrol. I would think you would have more administrative costs. How are you going to be able to adequately function with close to \$2 million in administrative reductions?

Mr. NELSON. Again, Mr. Chairman, we have to deal with the deficit in this country, and we have to improve our efficiencies. I think we have demonstrated our ability to do it. I look at it as a fine-tuning kind of situation.

Mr. EARLY. That would be wonderful. That will be a tremendous savings, if you can guarantee this Committee that you are not going to come in for a reprogramming or a supplemental in that particular account.

Mr. NELSON. I would not expect we would.

Mr. EARLY. That is contrary to some of your earlier testimony, but we can appreciate that. I assure you we will go with your latter suggestion. But to me that reduction is not a true saving.

#### CONTRACT DETENTION

Could you speak a little more about the contract detention monies. How much are you paying per person? How much is it costing us to contract for a detainee?

Mr. NELSON. I am going off the top, Mr. Chairman, on my comments here. As I mentioned, this trip to Houston and seeing this excellent facility. As I recall, detention costs are about \$25 per day per person, which is really a very, very low figure. It is an outstanding facility. It was put up in 30 to 45 days from the time the ground was broken, and it has worked out very effectively. It is well maintained.

Mr. EARLY. In your testimony I believe you said it appeared to be a shopping center?

Mr. NELSON. An industrial park.

Mr. EARLY. So there is no security?

Mr. NELSON. Oh, there is security, but the building is mainly concrete slab to the outside, and so from the street you would never really know what it was, because it is a typical enclosed concrete slab.

Mr. EARLY. How many of those contracts are there for detention. What number of aliens are we detaining through contract?

Mr. NELSON. I believe in the figures I gave before, I think 700, are detained in those facilities currently.

Mr. EARLY. And what has been the amount of the contracts for those 700?

Mr. NELSON. I don't have the dollar amounts handy. We will provide it to the Committee.

Mr. EARLY. You will provide it for the record?

Mr. NELSON. Yes, sir.

[The information follows:]

#### COST OF CONTRACT DETENTION

On Tuesday, January 14, 1985, the population count at the Service Processing Centers was as follows:

Service processing center	Rated capacity	Emergency capacity	Population Jan. 14, 1985
Varick Street SPC.....	224	250	209
Boston SPC.....	50	50	4
Fort Isabel SPC.....	568	682	536
El Paso SPC.....	342	410	336
Krome SPC.....	451	525	568
El Centro SPC.....	344	413	440
Florence SPC.....	160	160	164
Total.....	2,139	2,490	2,257

In addition to the Service Processing Centers, INS also utilizes state and local jails and contracts facilities. In FY 1984, INS used more than 900 such facilities. On January 14, 1985, the population count at the contract facilities was as follows:

Service processing center	Rated capacity	Emergency capacity	Population Jan. 14, 1985
Houston contract.....	300	N/A	158
Denver contract.....	75	N/A	78
Los Angeles contract.....	125	N/A	82
San Diego contract.....	200	N/A	145
Total.....	700		463

The average cost per detention day in a contract was about \$24.00. Currently, rates at contract facilities range from about \$22.00 per day to about \$31.00 per day.

#### DETENTION FUNDING

Mr. EARLY. Do you suggest to this Committee that would be about \$25 per person?

Mr. NELSON. That is my recollection from the visit down there that they were talking about that figure, which is considerably lower than what we are able to do it ourselves.

Mr. EARLY. This is a lot lower than the Department of Corrections. There I believe we are spending in excess of \$30,000 or \$40,000 per inmate per year.

Mr. NELSON. Of course our detention is a little different than some of the more heavy security corrections for prisoners. But, again, I know that the Bureau of Prisons, too, is looking at the con-

tract aspect. I think it is easier for us to do it because our detainees tend to be shorter-term detentions, and usually require less security. But there is excellent security and excellent maintenance, and we are firmly convinced that it is a balance.

I can't do it all by contract, certainly, but the idea of mixing contract detention with the permanent government detention we think is a very, very solid idea, because, again, it allows the flexibility. You can get new space on line quickly and you can also phase it down. You only pay for the time that you are using it.

#### OVERTIME PAY

Mr. EARLY. If you exempt all your people that get administratively uncontrollable overtime, how many of your other employees receive overtime pay?

Mr. ARNOLD. How much do you pay other than the administratively uncontrollable?

Mr. NELSON. Our inspectors receive 1931 Act overtime, which is different from AUO. Our other employees, clerical employees and the like, receive 1945 Act overtime.

Mr. EARLY. What is the anticipated amount to be spent for administrative overtime in 1985?

Mr. NELSON. The 1945 Act overtime was \$6,311,000 in 1984.

Mr. EARLY. In 1984 it was \$6,300,000. What do you anticipate spending in 1985?

Mr. NELSON. It would be very close to that amount. We would not anticipate a greater expenditure than that amount.

Mr. EARLY. What do we pay other overtime employees, time and a half?

Mr. NELSON. That is time and a half, yes, sir, up to a Grade 10.

Mr. EARLY. But in the administrative services account, there is a \$1.76 million reduction for FY 1986.

Mr. NELSON. I am sorry, I didn't understand your question.

#### PROGRAM DIRECTION REDUCTIONS

Mr. EARLY. You suggest \$1,776,000 in your administrative services account?

Mr. ARNOLD. Yes, sir, but there is no need why that would be for overtime.

Mr. EARLY. No, but it seems contradictory to me that you are able to make an almost \$2 million reduction there, but you justify paying \$6 million in overtime in the AUO account?

Mr. ARNOLD. It is very difficult to answer a question on overtime in such a large sum. If you were to focus on a particular action taking place at a particular time, if I might, I would say that in the finance shop in the Service, we pay overtime when we get behind in our activities. But it is hard to generalize about the whole \$6,311,000.

Mr. EARLY. What is the entire amount of the executive direction control and administrative services account?

Mr. ARNOLD. In 1985—the 1986 request, sir.

Mr. EARLY. Give me 1984–1985.

Mr. ARNOLD. For 1984 Executive Direction Control we obligated \$10,309,000; Administrative Services was \$26,824,000, for a total of \$37,133,000.

#### ADMINISTRATIVE AND OVERTIME CLARIFICATION

Mr. EARLY. So your overtime on administrative account, not counting AUO at all, is \$6.3 million on \$37 million?

Mr. ARNOLD. No, sir. The 1945 Act overtime is paid to a very large number of people across the agency at certain grade levels. At the Grade 7, for instance in Border Patrol, they receive 1945 Act overtime instead of AUO.

There are a number of employees, any clerical non-Border Patrol person or electronic radio repair people, drivers, etc. who work for the Border Patrol would not be paid AUO. They would be paid 1945 Act overtime. It goes all the way across the board in the agency. It is not only in these two decision units.

Mr. EARLY. How much of it is in just those two decision units?

Mr. ARNOLD. I could provide it for the record.

Mr. EARLY. Can you tell us what it was in 1984?

Mr. ARNOLD. Mr. Early, I have no—

Mr. EARLY. You can provide for the record what it was?

Mr. ARNOLD. We can go back to the accounting system and just get a report, but I don't have it here and I wouldn't want to hazard a guess.

[The information follows:]

#### OVERTIME EXPENSES IN MANAGEMENT AND ADMINISTRATION

In 1984, overtime expenses in the Executive Direction and Control program totaled \$47,549; in the Administrative Services program they totaled \$176,768.

Mr. NELSON. I might add, Mr. Chairman, on the overtime situation we have proposed, and would certainly plan to propose again—as you know we have the anomaly, if you will, of the 1911 overtime provisions for Customs and the 1931 Act for Immigration, contrary to the normal Federal overtime provisions, and these we believe are not good government and should be repealed so that there is basically a standard overtime provision for all government employees, including Customs and Immigration, and that would be a definite dollar savings also in the overtime payment.

#### ADMINISTRATIVELY UNCONTROLLABLE OVERTIME

Mr. EARLY. What is your opinion, Mr. Nelson, of the administrative uncontrollable overtime being incorporated into increased base salaries? You know from the report just submitted that all the agents are eligible for AUO in INS, and that they receive the full amount that they are eligible for. My question is—as it has been of other Justice agency heads—why not just incorporate that in to increased base salaries and have no overtime?

Mr. NELSON. I am not a personnel expert so it is hard to really respond to that. On the surface I suppose you could say that might have some merit. On the other hand, would it hurt flexibility? Obviously any organization such as the Immigration Service needs some flexibility.

Mr. EARLY. There is no flexibility in that account, Mr. Nelson. You pay everyone that is eligible the maximum amount. I don't see any flexibility. It is not uncontrollable. It is very controllable. It is the most controlled overtime I have ever seen. Again, I just think we would be better off putting it in to increased salaries.

Mr. NELSON. It is certainly something we would be happy to pursue.

Mr. EARLY. I think Justice will pursue it.

Mr. NELSON. I will defer to our brethren.

#### REPEAT VIOLATORS

Mr. EARLY. Mr. Smith.

Mr. SMITH. You apprehended 1,139,000?

Mr. NELSON. Yes.

Mr. SMITH. I was down there one night, it looked to me almost hopeless. Do you know how many of those you were apprehending for the second, third or fourth time?

Mr. NELSON. No, we don't, although we are getting in a better position to know that. It is obviously difficult with the huge flow of people, changing of names, identities, and so forth. We don't fingerprint people. It is just too burdensome. When we do visually and otherwise get to know repeat offenders, they often will be at a certain point. Some of them are prosecuted.

Now that we are getting better detection equipment, for example the low-level light television equipment at El Paso, we are getting a little better record of people coming through. So we will begin to get to know that better. It will still be a rather general kind of thing.

In a more general response, Mr. Smith, to your question, again through the support of the Congress and the administration in getting the increased resources, the 850 additional Border Patrolmen, a thousand additional overall personnel, that personnel increase together with the increases in previous years in helicopters, aircraft, infrared devices, this low-level television, we are now in a lot better position than ever before to apprehend.

Also it is, though I wouldn't agree that it is a hopeless situation, it is a difficult one, and it will continue to be that way. But I think with our increased border enforcement that we are now getting on line together with some of the other efforts, and hopefully some immigration legislation that will penalize employees for hiring illegals, we can really start cutting back on the number of people that are willing to take the chance of getting across.

Mr. SMITH. We got back to the motel that night. It was kind of late. There weren't very many places open, but a filling station was open. We went over there to get a can of soda, and here came four or five across there, and it was obvious that they had been there many times before. I think they just came in on the weekend, worked a few days. Then they go back and come back the next time they want to work.

I don't know how many times they get apprehended, but they get apprehended. They go back across and come back a little later. It sure looked hopeless to me, unless you can do something about changing the immigration laws.



Mr. NELSON. Well, that is clearly a very important part of it, no question about it. As I mentioned earlier, Mr. Chairman, in the whole process we really need a combination of the border enforcement, the job market enforcement, which may be sanctions, and as I mentioned to Mr. Rogers, work with employers to let them screen out the illegals.

They need to do the job themselves. The sanctions should just be a part of that, and then the entitlement verification to make sure that illegal aliens do not draw welfare and other benefits from entitlement programs. It is just a matter of a three-pronged approach to deal with the problem.

#### CONTROL OF BORDER

Mr. SMITH. Now, San Diego has extended its city limits down the highway and over onto the border, so they can build those factories right next to the border. I don't know of any way to control that after they do that, unless there are different laws than we have now.

Now, how many different countries are they coming from? I was surprised to find they are coming from the Far East and everywhere else.

Mr. NELSON. We are popular, Mr. Chairman. We get people from everywhere in the world. There is probably hardly a country around that we don't draw from. Obviously the big numbers come from Mexico and through Mexico. It is very interesting, in recent years there is a lot more smuggling through Mexico. People come from Korea, China, the Philippines, Yugoslavia, many, many other countries. One thing, as I mentioned a little earlier too, is that we have gotten increased cooperation from Mexican officials in this third country flow through there, and a lot of good efforts by our enforcement people.

Mr. SMITH. A lot of them are coming from Central America, and it isn't easy for them to be detected because they work through the population. It isn't as easy to detect those from Central America, as Koreans, for example.

Mr. NELSON. Yes, there are language differences, and again, as you know, our Border Patrol agents are all fluent in Spanish. They have seen a lot of people coming through. They don't catch everybody maybe, but they are able to detect a good number of the Central Americans.

Mr. SMITH. I meant the regular Mexican police. It wouldn't be as easy for them to detect them walking down the street.

Mr. NELSON. No.

Mr. SMITH. That is all I have.

#### ASYLUM

Mr. EARLY. Mr. Nelson, according to the INS, in 1984 the U.S. government granted asylum in 328 cases involving Salvadorans, and denied asylum to 13,045. Moreover, since the government has stepped up its efforts to stop the flow of Salvadorans into this country, I understand that at least 18 people, Americans, have been indicted on charges related to sanctuaries provided to Salvadorans. Clearly, there is a growing sanctuary movement among church or-

ganizations. How are these situations and the handling of Salvadoran refugees affecting the INS?

Mr. NELSON. Certainly our policy, Mr. Chairman, is that it is against the law to smuggle illegal aliens, and whether these people are church affiliated or not, they have to stand before the law like anybody else. So when we apprehend church people involved in the sanctuary movement, they will be prosecuted, as indicated in your question. Although there has been a lot of publicity, as you know, we have made it very clear we are not targeting church groups. In fact, 18,000 smugglers were apprehended last year. Eighteen or 20 of those were sanctuary people. So obviously it is not a big number of the smugglers. I think that reflects it.

On the statistics on the asylum, you are right. It is basically 330, I believe, 328 granted, which means about 500 people because some of them were families, Salvadorans. Of the 13,000 that were denied, I think about 3,900 have gone back, because the other eight or nine thousand are in the pipeline. Sometimes that is misunderstood, and again the sanctuary movement blurs it, making it like it is just INS or the government that is refusing these people asylum.

We deny asylum if we don't feel there clearly is merit, under the law. Then after our denial, if that is the case, they have the full panoply of administrative, legal and judicial legal rights to have their case heard, so the big number of these 13,000 are still in the pipeline.

Mr. EARLY. I am not a big believer in statistics, Mr. Nelson. How many persons held at the El Centro facility are from El Salvador and Guatemala and have requested formal deportation hearings rather than accepting voluntary repatriation to their homelands?

Mr. NELSON. I don't know that we have that figure.

Mr. EARLY. Provide it for the record.

Mr. NELSON. We will.

[The information follows:]

#### REQUEST FOR ASYLUM

As of April 10, 1985, there were 199 Salvadorans and 47 Guatemalans detained at El Centro. Of these, 192 Salvadorans and 43 Guatemalans have requested deportation hearings.

#### DETENTION CENTER IN BOSTON

Mr. EARLY. At this time I yield to Mr. Regula.

Mr. REGULA. No questions.

Mr. EARLY. Mr. Nelson, I understand that INS opened a 50-man capacity detention center on Commercial Street in Boston in December 1984. Is the Boston facility for short-term detention only?

Mr. NELSON. That is correct.

Mr. EARLY. Part of that building is in the Coast Guard Building?

Mr. NELSON. As I understand it—and possibly, Mr. Kisor, do you have additional information? It is tied in with the Coast Guard facility?

Mr. KISOR. Yes. We work in cooperation on this arrangement with the Coast Guard, Mr. Chairman.

Mr. EARLY. And has the Coast Guard been cooperative in allowing you to use that facility?

Mr. KISOR. Yes, sir.

Mr. EARLY. How long is the average detainee held in the detention center?

Mr. KISOR. We really don't have a track record because it was just opened a matter of months ago, sir.

Mr. EARLY. I have a comment, then. Of the 2,159 people held in the INS detention centers as of April 14, 1984, some statistics indicate that 706 were Salvadorans, 195 Haitians, and 112 Guatemalans—or over 1,000 of the total. How is the INS handling this growing national problem?

Mr. NELSON. I am not sure of the figures but I certainly wouldn't dispute them. There is no question but that we have had an increase in the other-than-Mexican groups in recent years, and those I guess for fairly obvious reasons tend to be longer term detainees. As Mr. Smith was asking, a lot of the Mexicans will return across the border, in some cases to come back again, others to go back home, while those that have transited all the way through Mexico are a little less likely or eager to return. And so they tend to be longer detained cases which carry with it the costs and other concerns that are there.

Mr. EARLY. Mr. Nelson, I want to thank you for your testimony and I assure you that the Committee is well aware of the difficulties at your particular agency. Immigration is such a complex problem and we don't seem to be making any gains, as the Chairman pointed out. We hope we will get an immigration bill passed and some additional tools that will help you. Thank you very much. We have a few more questions which you can answer for the record.

Mr. NELSON. Thank you, Mr. Chairman. I appreciate it.

[The questions for the record and the answers submitted thereto, follow:]

QUESTIONS SUBMITTED BY CONGRESSMAN EARLY  
IMMIGRATION AND NATURALIZATION SERVICE

Proposed Reduction for Inspections

QUESTION:

In your statement you also refer to the proposed decrease of \$5,000,000 in appropriated funds for the Inspections program. You say that this proposal reflects an anticipated increase in reimbursements resulting from changes in regulations regarding airline carrier payments of inspectional overtime at certain airports. Will this proposal require enactment of legislation?

What has been the reaction of the airlines, when do you anticipate these changes in regulations will be in place, and what airports would be affected?

What would be the impact of this proposal on the traveling public - will the proposal result in significant increases in delays at the airports involved?

ANSWER:

A new regulation at 8 CFR 239.1 and 239.2 became effective on January 25, 1985, eliminating the exemption to carriers for payment of inspectional overtime designated "international" at 8 CFR 100.4(c) (3). Prior to publication of this regulation as a final rule, carriers operating on schedule were exempt from payment of overtime charges at all airports whether or not they had been designated international. Under the new regulation, between the hours of 5:00 p.m. and 8:00 a.m., when inspectional overtime is necessary, payment will be made by the carrier and not the government. It is estimated that this change will result in an annual savings to the government of approximately \$5,000,000.

Few comments were received from the airlines while the proposed new regulation was open for public response.

This change resulted from a change in regulations and does not require enactment of legislation.

While few major airports now carry the "international" designated the costs associated with this regulatory revision are not significant when compared to the total costs historically incurred by the carriers in operating at these airports.

This regulation will not affect the level of service provided to the traveling public, it simply diverts the costs of inspecting flights arriving during the 5:00 p.m. to 8:00 period from the taxpayer to the air carrier.

Immigration Reform ProposalsQUESTION:

What is the Administration's plans with respect to immigration reform? Are you planning to resubmit the Simpson-Mazzoli bill, or are you going to submit only portions of it to the Congress?

ANSWER:

The FY 1985 enhancement package is a first step in bringing the problem of illegal immigration under control. When fully implemented, the package will have a dramatic impact on the rate of increase in the resident population. It will have a small impact on the existing resident population by making it extremely difficult for those who depart or who are removed from the the United States to return.

This package, however, does not alleviate the need for interior enforcement and employer sanctions legislation. The increase in personnel and equipment will make it much more difficult to enter the United States successfully. However, as long as aliens know that they can gain employment and be reasonably free of detection if they can evade apprehension at the border, the pressure on this nation's Borders will continue.

The Border Patrol regularly uses task force operations along the United States/Mexico Border. These operations serve to enhance coverage in specific locations at peak entry times. They also create major disruptions to established entry patterns and smuggling rings. Experience has proven that these disruptive effects carry on for a considerable time after the operations are concluded.

The INS has instituted a program called Employer Cooperation which is designed to compensate to some extent, for the lack of employer sanctions legislation. This program encourages employers to cooperate with the INS by not hiring illegal aliens. This program is quite well received by employers, however, the employers who participate in the program are only those who do not hire illegal aliens knowingly as a matter of practice, and does not reach those employers who habitually and purposely hire illegal aliens.

The Employer Cooperation Program enables employers to avoid hiring illegal aliens through verification of INS records. The program is based on the following: (1) pre-employment inquiries concerning identity and alien status; these inquiries are minimally burdensome on employers and job seekers and do not seek information which would be ground for unlawful discrimination; and (2) the employer announcement of participation in the program through signs posted in the personnel office. The verification process serves to ensure a legal work force for the employer and, together with announcement of the program, deters illegal aliens from seeking employment at participating employers. Because of limited INS resources, the program is focused on employers who have been targets of past enforcement efforts. The Systematic Alien Verification for Entitlements (SAVE) Program enables state and Federal entitlement benefit agencies to avoid paying benefits to illegal aliens through verification of INS records. This program does not involve employers.

Return of Mariel Cubans to CubaQUESTION:

What is the status of recent negotiations to return Mariel Cubans to Cuba?

ANSWER:

The Cubans are being removed from the United States under the terms of the agreement between the Governments of Cuba and the United States. INS, the Department of State, and the Bureau of Prisons are working together on the removal program and expect to remove 2,746 Mariel Cubans at the rate of 100 per month. This is subject to the resolution of pending litigation. The criteria used to determine whether Mariel Cubans are excludable is contained in Section 212(a) of the Immigration and Nationality Act.

QUESTION:

What will be the annual cost savings to INS and to other Justice Departments agencies with the removal of the Mariel Cubans?

ANSWER:

The cost savings of removing these aliens from American jails and penitentiaries has been estimated at \$41 million.

Inspector Overtime PayQUESTION:

How many of your employees receive regular overtime pay, how many receive Administratively Uncontrollable Overtime pay and what is the cost of each to INS?

ANSWER:

10,168 employees earned 1931 or 1945 or AUO overtime pay during FY 1984.

## 1931, 1945 Act &amp; AUO - FY 1984

1931 Act	\$21,684,719
1945 Act	6,311,232
AUO	<u>17,016,761</u>
Total	\$45,012,712

QUESTION:

How is the present system of capping overtime payments working for both the Service and INS employees?

ANSWER:

There are disadvantages associated with administering the Congressionally mandated overtime cap of \$20,000. The monitoring process which is necessary at all levels to insure compliance, is costly in both personnel and dollars. The overtime cap also creates problems in scheduling, and requires very close scrutiny and control by supervisors.

We do not believe that further reduction in overtime expenditures is possible without severely limiting the ability of INS to provide an acceptable level of service to the public.

The Service has requested a raise in the individual overtime cap to \$25,000. The Congressionally-mandated cap recently was raised for the U.S. Customs Service to this figure.

QUESTION:

What plans, if any, does INS contemplate for changing Inspector overtime pay? For example, would you plan to shift more of the burden to the private sector?

ANSWER:

A new regulation at 8 CFR 239.1 and 239.2 became effective on January 25, 1985, eliminating the current exemption to carriers for payment of inspectional overtime designated "international" at 8 CFR 100.4(c) (3). Prior to publication of this regulation as a final rule, carriers operating on schedule were exempt from payment of overtime charges at all airports even if they had been designated international. Under the new regulation, between the hours of 5:00 p.m. and 8:00 a.m., when inspectional overtime is necessary payment shall be made by the carrier and not the government. It is estimated that this change will result in savings to the government of approximately \$5,000,000 annually.

ADP ServicesQUESTION:

In the budget justifications you state the "The overall office automation effort in INS continued at an accelerated pace during FY 1984. This was made possible by the redirection of the planned hardware/software acquisition process." Has INS modified its long-range ADP plan, and if so, please provide a copy of the most current long-range plan and any available updates.

ANSWER:

The early award of the software development contract in November 1983, permitted numerous developmental efforts to begin in FY 1984. Additionally, the agreement with the Department of Justice for the establishment of the Dallas Data Center permitted the expansion of these new systems Servicewide. These changes to the Long Range Plan are outlined in the "Immigration and Naturalization Service 1985 Status of Long Range ADP Plans", which will be provided to the Committee.

This document is currently undergoing a review by INS management and should at this time be considered a draft. Though this document is not a strategic ADP plan it does provide information concerning agency progress since the development of the 1981 ADP Plan, a description of planned support systems, the overall hardware architecture and a general implementation schedule.

In addition the Service is currently undertaking a thorough review of its ADP requirements in connection with the development of a new strategic information systems plan. The plan should be completed by September 1985.

QUESTION:

The justifications state that INS desires to establish an integrated systems approach. However, the justifications also describe 14 separate systems targeted for some form of enhancement. Why are you going to enhance these separate systems if you also plan to establish an integrated system approach?

ANSWER:

The development of separate systems does not conflict with an integrated systems approach. INS systems are being developed using a common data base management system which permits inter-system communication. The overall integration of these systems is being accommodated by the Central Index System which is scheduled to be implemented during May 1985. This index system serves as a pointer to other systems which provide detailed information on a particular application or case. System users are able to transfer between systems by function keys. Such an approach permits independent development efforts to proceed concurrently.

QUESTION:

I understand that your Adjudications Assurance System is designed to provide support to adjudications field staff in processing applications for benefits. What impact will the installation of this nationwide system have on the Dallas Data Center and on the existing telecommunications network? What will be the total cost of this project?

ANSWER:

The Adjudication Casework System (ACS) is intended to support field office processing of applications and petitions for benefits under the Immigration and Nationality Act. The initial system will be installed in one office on a pilot basis late in October 1985. The system will provide automated file searching and transfer through links to the INS Central Index, case tracking and status inquiry support, automated printing of forms and case management information. The initial phase will include eight of the highest volume applications and petitions. Once the pilot system is operating smoothly, any adjustment made will be expanded to other INS offices and also to other types of applications and petitions.

The first district office will be supported by the Dallas Data Center. Subsequent district offices also will be supported by Dallas and/or



INS regional mainframes. This determination will be made dependent upon expansion of the Dallas Data Center and the resultant cost/benefit tradeoffs between use of Departmental and INS computing capabilities.

The INS data communications network (INSINC) currently has the capacity to accommodate the initial ACS site. Prior to additional sites being implemented the INSINC network backbone must be upgraded.

QUESTION:

I understand that your Non-Immigrant Information System is designed to provide INS and other government agencies with arrival and departure information on non-immigrant visitors. I also understand that its data base contains over 26 million on-line records, and that procedures to update that data base take about two weeks from receipt of arrivals/departure information. Do you think this is the most efficient system for tracking non-immigrant status? How frequently is the system used and by what agencies?

ANSWER:

The Non-Immigrant Information System (NIIS) was designed to provide INS and other agencies with up-to-date, complete and accurate information on arrival and departure of the various classes on non-immigrant visitors. At this point in time, over 41.5 million transactions have been processed into the data base which currently contains more than 23 million records. It is true that most arrivals and departures are posted to the data base within two weeks of the arrival/departure date. We do believe this is an efficient system for tracking non-immigrants although we are constantly seeking ways to streamline and otherwise improve the system. The data base is accessible to more than 500 terminals within the INS and is used 7 days per week, 23.5 hours per day to support mission-related functions. Approximately 14 requests for special reports have been received from other agencies. Recurring reports are provided quarterly to the Department of Commerce and the U.S. Travel and Tourism Administration; monthly to the Department of State; and bi-weekly to the FBI. In addition, the FBI and INTERPOL have dial-up terminal access to the data base.

## QUESTIONS SUBMITTED BY CONGRESSMAN DWYER

IMMIGRATION AND NATURALIZATION SERVICEDistrict OfficesQUESTION:

Commissioner Nelson, my offices have a great deal of interaction with the INS's District Office in Newark, New Jersey. In fact, my New Jersey offices have opened over 1,000 immigration cases in the past two years. As you can imagine, I am very concerned that the INS District Offices have resources adequate to meet the demands placed on them. I have been impressed by the way that the INS staff in Newark has functioned with the recent surge in filings that is taking place.

- Would you discuss how the proposed budget for FY 1986 will impact upon the district offices and their staffs? How will it impact upon the Newark District Office?
- What new initiatives will you implement during FY 1985 and 1986 to reduce the backlog of cases in the district offices?

ANSWER:

The Central Office of INS distributes personnel resources to regions based on the actual workload in each region. For example the following demonstrates the distribution for FY 1985:

REGION	IN DISTRICT AND RAC*PROCESSING		DISTRIBUTION OF AUTHORIZED FORCE POSITIONS	FUNDED WORK YEARS
	TOTAL TIME	PERCENT OF TIME		
Eastern	482,346	.3386	407	372
Southern	322,688	.2265	272	246
Northern	221,713	.1556	187	171
Western	<u>397,703</u>	<u>.2792</u>	<u>335</u>	<u>320</u>
TOTAL	1,424,450	1.000	1,201	1,109

\*Regional Adjudications Center

The regions use the same formula to distribute personnel to their districts. Based on this information the authorized force for Newark for 1985 is 48 permanent adjudication positions. As of March 16, 1985, Newark had an adjudication staff of 44 on duty. The following figures reflect good progress in overcoming backlogs at Newark.

Newark Pending Caseload

	<u>Oct. 1984</u>	<u>Jan. 1985</u>	<u>Current Backlog (Months)</u>
Naturalization	15,883	12,253	4.9
Adjudication	12,073	10,280	1.1

As can be seen by these figures, the District Director is committed to reducing backlogs through careful management of his available resources, and should be current by the end of FY 1985.

In 1985 and 1986 adjudication cases will continue to be sent to ports of entry and regional adjudication centers. This will allow district offices to dedicate their resources to cases requiring interviews. One the Commissioner's priorities for 1985 sets a goal to:

"Eliminate backlogs by focusing attention on policy revision and streamlining and by monitoring productivity and case aging (adjudications, naturalization and asylum)."

## QUESTIONS SUBMITTED BY CONGRESSMAN CARR

## DEPARTMENT OF JUSTICE

Immigration and Naturalization ServiceCharges to AirlinesQUESTION:

It is my understanding that you are planning to cut 50 positions which will "be achieved through a realignment of the roles" of personnel in the central and regional offices. What regional offices will be affected?

ANSWER:

The regional distribution of these reductions has not been determined at this time; however, the distribution by program is shown below.

<u>Program</u>	<u>50 Position Reduction</u>
Inspections	1
Border Patrol	1
Investigations	1
Anti-Smuggling	1
Detention & Deportation	1
Adjudication & Naturalization	4
Refugee and Overseas	2
Training	2
Data and Communications	6
Information & Records Management	10
Intelligence	1
Field Management	1
Legal Proceedings	1
Executive Direction	5
Administrative Services	13
Total	50

Ports of EntryQUESTION:

How many INS inspector positions are there at points of entry?

How many positions are in the northern and southern regions of the U.S.? How many are in El Paso and Detroit? (There is a disproportionate amount of the allocation of resources in the northern and southern regions.)

How much overtime is paid to INS inspectors to keep ports of entry functioning? How much overtime is paid in the Detroit area? How much overtime is paid in the El Paso region?

I understand that, in the Detroit area, the government (INS) pays for inspector salaries as well as for their overtime and housing. The Detroit bridges and tunnel corporations are privately owned and, as I

am told, do make a profit. Can't INS have these corporations pay for some of the cost that the government has to bear? Is this a common occurrence throughout the U.S.?

ANSWER:

The nationwide inspections workforce comprises 1,532 permanent positions stationed on the southern and northern land border areas. 360 positions are used along the northern border and 427 are assigned to the southern border.

El Paso is staffed by 97 Immigration Inspectors, Detroit employs a force of 39.

The amount spent on 1931 Act Overtime in Detroit and El Paso follows:

1931 Act Overtime - FY 1984

Detroit	\$760,146
El Paso	\$646,611

The Detroit bridge and tunnel situation is unique to that area. INS is presently reviewing possible alternatives through which the government could be reimbursed for the personnel costs associated with providing inspection services at these facilities.

Safety of Inspectors

QUESTION:

Has there been a problem in insuring the safety of INS inspectors -- especially along the Mexican border?

ANSWER:

Concern for the safety of INS Inspectors, stationed both along the southern and northern borders, is felt at all levels of Service Management. Over the years INS has made numerous changes to inspection operations to help to insure that inspectors both at the large urban facilities and at isolated ports can perform their task without fear for their safety. Initiatives range from work force scheduling to firearm authorization to the physical design of port structures. Additionally the Service presently is training inspectors stationed along the southern border in techniques to counteract the unique threats to which they are exposed in that environment.

Inspectional Overtime

QUESTION:

Your budget states that "INS is currently pursuing regulatory changes regarding aircraft carrier payments for inspectional overtime at certain airports."

Please explain the above comments. What airports and airlines are affected?

ANSWER:

A new regulation at 8 CFR 239.1 and 239.2 that became effective on January 25, 1985, eliminates the current exemption to carriers for payment of inspectional overtime designated "international" at 8 CFR 100.4(o)(3). Before this regulation was published as a final rule, carriers operating on schedule were exempt from payment of overtime charges at all airports whether or not they had been designated international. Under the new regulation, between the hours of 5:00 p.m. and 8:00 a.m., if inspectional overtime is necessary, payment shall be made by the carrier and not the Government. This change will result in an estimated savings to the government of approximately \$5,000,000 annually.

Few comments were received from the airlines while the proposed new regulation was open for public response.

While few major airports now carry the "international" designation the costs associated with this regulatory revision are not significant when compared to the total costs historically incurred by the carriers in operating at these airports.

This regulation will not affect the level of service provided to the traveling public, it simply diverts the costs of inspecting flights arriving during the 5:00 p.m. to 8:00 p.m. period from the tax payer to the air carrier.

Airline ChargesQUESTION:

What has been the past and present practice of the INS in requiring airlines to detain aliens upon entry into the U.S. as well as the cost of lodging, food and guard for these aliens?

ANSWER:

Section 235(b) of the Immigration and Nationality Act (INA) directs that every alien (other than crewmembers, stowaways, and security risks who are covered by separate provisions) "who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer." Thus, detention is mandated by statute.

The only exception to detention is through the exercise of parole authority set forth in Section 212(d)(5) of the Act. This authority may be exercised in the discretion of the Attorney General and has been delegated to the district directors. However, the use of parole authority is restricted to emergent reasons or reasons deemed strictly in the public interest.

When an alien who appears to be inadmissible arrives aboard a regular carrier which has entered into a contract with the Attorney General under Section 238 of the Act, the placing of the alien in the custody of the carrier, as authorized by Section 233 of the Act, ordinarily will satisfy the detention requirements of the Statute.

In cases where carrier custody appears to be inadequate to protect the safety of the public, or where the security precautions which the carrier will take, appear to be inadequate or inappropriate in view of the character of the alien, custody may be assumed by the Service.

Section 233(c) of the Immigration and Nationality Act, as amended, provides that air carriers are exempt from paying detention costs under the following circumstances:

1. if an alien who arrived is in possession of a valid, unexpired immigrant visa;
2. if an alien is finally admitted to the United States following the detention;
3. if an alien other than a crewmember who arrived in possession of a valid unexpired nonimmigrant visa or equivalent document or an unexpired reentry permit makes an application for admission within 120 days of the issuance of the visa or the last admission under the reentry permit. This is provided only if the transportation line establishes that it could not with due diligence have ascertained the cause for inadmissibility;
4. if a person claiming United States nationality is in possession of an unexpired American passport; or
5. if any person who claims United States nationality and is in possession of a currently valid certificate of identity issued by a consul was admitted to the United States after such detention.

Accordingly, the Immigration and Naturalization Service does not assess carriers the detention costs for any person or class of persons included in items one through five above under Section 233(c).

What we do, however, is impose upon the carrier the duty of preventing ". . . the landing of such alien in the United States. . . at a time or place other than as designated by the immigration officers." This statutory authority for placing an alien into carrier custody pending an exclusion hearing is found under Section 271 of the Immigration and Nationality Act (8 U.S.C. 1321).

If, upon arrival, the inspecting immigration officer determines that an alien is not clearly admissible and is likely to abscond, the carrier will be served an order on Form I-259 to present that alien for further inquiry at a specific time and place.

An important point to note is that although neither that section of law nor the Form I-259 specifies that the alien will be safeguarded, in keeping with the statutory duty, safeguards are obviously needed to ensure that the alien is presented as ordered. Failure to present the alien is prima facie evidence that an unlawful landing has been made and that the carrier is liable to a penalty of \$1,000 for each such landing under Section 271.

QUESTION:

What is the law that governs the INS to charge costs to the airlines?

ANSWER:

Section 233(c) of the Immigration and Nationality Act (INA) lists under what circumstances air carriers are exempt from paying detention costs. Please refer to the answer for the previous question for a fuller discussion.

Section 271 of the INA imposes upon the carrier the duty of preventing " ... the landing of such alien in the United States ... at a time or place other than as designated by the immigration officers." Any carrier who fails to comply with this requirement is liable to a penalty of \$1,000 for each such violation.

Though the law does not specify that the alien be safeguarded, in keeping with the statutory duty, safeguards are obviously needed to ensure that the alien is presented as ordered. Failure to present the alien is prima facie evidence that an unlawful landing has been made. The carrier is then liable to the monetary penalty.



QUESTIONS SUBMITTED BY CONGRESSMAN O'BRIEN  
IMMIGRATION AND NATURALIZATION SERVICE

QUESTION:

I noted in your statement that you are proposing a reduction of \$1,600,000 and 50 positions.

- A. From what activities will this reduction come?
- B. Are savings in personnel achieved through attrition or RIFs (reductions in force)?
- C. What impact, if any, will this have on the Central and Regional offices?

ANSWER:

As part of the overall reduction of 50 positions and related funding generated by the Grace Commission, five positions were to be reduced in Enforcement. Each of the five Programs within Enforcement (Border Patrol, Investigations, Anti-Smuggling, Detention and Deportation and Intelligence) were to be reduced by one position. The reductions would have a minimal effect on long-term operations of the Enforcement Branch of the Service.

The planned reduction of a single position in the Inspections program will not adversely affect the program's service and enforcement functions during FY 1986.

The reduction of 13 permanent positions to Administrative Services follows on the heels of a 49 permanent position reduction in this program in 1985. The expansion of Enforcement, increasing workload in operational program and, therefore, support requirements, however, make these reductions more difficult to achieve than originally envisioned. Every effort will be made to continue to provide effective management and administrative support to line operations. These reductions may have to be absorbed by realigning costs and charging benefiting programs.

The Refugee, Asylum and Parole personnel level has been reduced by 2, from 68 to 66 in FY 1986. The cutback must be absorbed either by our offices overseas which provide important service and enforcement functions or by the Central Office which provides policy guidance and monitoring to the refugee and asylum programs.

Adjudications is scheduled to lose four positions in FY 1986 due to the Grace Commission cuts. This loss of positions will be offset by increased productivity, or by improved methods of doing adjudications work.

The distribution of these reductions by region has not been determined at this time; however the reduction by program follows:

<u>Program</u>	<u>50 Position Reduction</u>
Inspections	1
Border Patrol	1
Investigations	1
Anti-Smuggling	1
Detention & Deportation	1
Adjudication & Naturalization	4
Refugee and Overseas	2
Training	2
Data and Communications	6
Information & Records Management	10
Intelligence	1
Field Management	1
Legal Proceedings	1
Executive Direction	5
Administrative Services	13

QUESTION:

You are requesting a decrease of \$5,000,000 in the inspections program. What is your justification for this?

- A. You mention that reimbursements from airline carrier payments of inspectional overtime will be used to offset this reduction. Will these funds be used to pay personnel costs?
- B. By what authority will the INS be able to use such receipts to pay overtime costs for personnel?
- C. How was the proposed shift in the cost burden received by the airlines?

ANSWER:

A new regulations (8 CFR 239.1 and 239.2) became effective on January 25, 1985, eliminating the current exemption to carriers for payment of inspectional overtime designated "international" (8 CFR 100.4(c)(3)). Prior to publication of this regulation as a final rule, carriers operating on schedule were exempt from payment of overtime charges at all airports whether or not they had been designated international. Under the new regulation, between the hours of 5:00 p.m. and 8:00 a.m., when inspectional overtime is necessary, payment will be made by the carrier and not the government. It is estimated that this change will result in savings to the government of approximately \$5,000,000 annually. Some of the funds may be used to pay personnel costs.

Few comments were received from the airlines while the proposed new regulation was open for public response. This regulation will not affect the level of service provided to the traveling public, it simply diverts the costs of inspecting flights arriving during the 5:00 p.m. period from the tax payer to the air carrier.

While few major airports now carry the "international" designation the costs associated with this regulatory revision are not significant when compared to the total costs historically incurred by the carriers in operating at these airports.

QUESTION:

Last year, this subcommittee approved an additional 1,000 positions for the INS, approximately 850 of which were for the border patrol. How many of these positions have been filled to date?

ANSWER:

Of the 850 positions approved for the Border Patrol, 768 were Border Patrol Agent positions and 82 were support positions. As of April 29th, 184 new agents had graduated from the Border Patrol Academy since October 1, 1984. There are eight classes now in session with 348 new trainees reporting for duty. Eleven class sessions are scheduled with 48 trainees each for the remainder of the fiscal year. A total of 50 support positions have been filled since the first of the fiscal year. It is expected that all 82 support positions will be filled by the end of FY 1985.

QUESTION:

Does your FY 1986 request include additional border patrol agent positions? If so, how many?

ANSWER:

The FY 1986 budget request does not include additional border patrol positions.

QUESTION:

The Canadian government plans to resume passenger train service, commencing June 1, 1985, from Montreal to Halifax. Clearly, INS personnel will be required to conduct immigration inspections.

- In your estimation, how many personnel would be required for this activity?
- Please provide for the record a list of the total personnel and cost requirements (FTE and support personnel needed, salaries, benefits, overtime costs, office space requirements, office equipment and supplies) associated with this activity in FY 1985.
- If funding for this activity cannot be provided in a FY 1985 supplemental appropriation, could the INS absorb the costs associated with this activity by providing for them out of existing available funds?
- Prior to termination of this service in 1981, how many INS personnel (inspectors and support staff) were assigned to this task? Please provide for the record the location of the INS offices used during this time. Would it be possible to reopen them?

- Assuming funds are approved for this purpose, how long would it take to hire inspectors and support personnel?
- During the previous operation, were INS inspectors stationed on board of incoming trains or at fixed-point locations? Where would INS inspectors be stationed this time?
- Has the Canadian government made any formal requests or inquiries with respect to this matter? Provide for the record copies of any correspondence between the Canadian government and the INS on this subject.
- If funds are not made available for the inspection personnel and office space needed by June 1, 1985, how will the INS meet its inspection responsibilities along this route?

On April 10th we targeted both funds and positions for this activity. During FY 1985 these additional inspection tasks will require two permanent inspector positions supplemented by two part-time positions. Funding of \$45,000 for personnel and related expenses will be required during this year. Both positions and funds have been made available from existing resources. Staffing necessary to support this new activity will be on-duty prior to the June 1st commencement of the Montreal-Halifax service.

The INS facilities previously used the Jackman and Vanceboro ports-of-entry, will continue to be used for inspection of this train. Inspectors stationed at these locations will, as in the past, perform the inspection during a scheduled stop. A level of resources previously required for these inspections will be required upon resumption of this service, i.e. two permanent and two part-time inspectors.

The Canadian government, on February 27th of this year, informed INS as to its plans for the Montreal - Halifax service. A copy of this correspondence is attached.

~~W3441-2-2-3~~

February 27, 1985.

Mr. Stanley E. McKinley,  
Regional Commissioner,  
United States Immigration  
and Naturalization Service,  
Federal Building,  
11 Elmwood Avenue,  
Burlington, Vermont,  
U.S.A. 05401

Dear Mr. McKinley:

This is in response to a communication to my office from David T. Drysdale, Immigration Attaché U.S. Embassy in Ottawa requesting that I inform you of the Canadian Government's intentions with respect to the institution of a passenger train service between Montréal and Halifax that transits through the State of Maine.

The Minister of Transport announced on January 15, 1985, that this service which was removed in 1981 was to be reinstated as of June 1, 1985. The service has scheduled stops in the State of Maine at Jackman, Greenville, Brownville Junction, Mattawamkeag, Danforth and Vanceboro. This letter is to request on behalf of the Department of Transport that inspectional services be provided to allow the passage of this passenger train through the State of Maine.

Mr. Samy Watson, Chief, Special Projects and Development, of my staff attended a meeting in Portland, Maine on February 21, 1985, with Mr. Elmer Hasker, your Assistant Regional Commissioner to discuss the procedures and costs that are to be associated with this service. Also, in attendance at that meeting were U.S. Immigration and Customs District officials as well as VIA Rail representatives.

I understand that meeting set the framework for further discussions to examine the details with respect to the scheduling of the train, the costs; if any, VIA is to be charged by U.S. Customs and Immigration, and the examination procedures that are to be employed.

Mr. Aubrey Bates, Manager of Transportation, VIA Rail, Atlantic Region, will be the contact for the corporation. VIA Rail will be communicating with Mr. Hasker as to the scheduling of trains and other technical matters.

Should you have any further questions please do not hesitate to contact Mr. S. Watson who will be the responsible officer for the Department of Transport at (613) 996-8108.

Yours sincerely,

a signé l'original

LOUIS RANGER

Original Signed by

*for* R. Tittley,  
Director General.

cc: Mr. A. Bates,  
VIA Rail Canada Inc.

WATSON/d1

THURSDAY, APRIL 4, 1985.

**GENERAL LEGAL ACTIVITIES**

**WITNESSES**

**STEPHEN S. TROTT, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION**

**W. LAWRENCE WALLACE, ACTING ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**JOHN R. SHAFFER, DIRECTOR, BUDGET STAFF**

**RICHARD STIENER, DIRECTOR, INTERPOL NATIONAL CENTRAL BUREAU**

**GENERAL LEGAL ACTIVITIES BUDGET REQUEST**

Mr. SMITH. Today we consider the 1986 budget request for the General Legal Activities of the Department of Justice. The request is for \$200,277,000, which is an increase of \$6,114,000 over appropriations for 1985 to date. We have the Assistant Attorney General for the Criminal Division, Mr. Stephen Trott, who will present a statement in support of this request. We will insert the justifications in the record at this point.

[The justification material follows:]

DEPARTMENT OF JUSTICE  
 (General Legal Activities)  
Budget Estimates, Fiscal Year 1986  
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Legal Activities  
Salaries and expenses, General Legal Activities

Summary Statement

Fiscal Year 1986

The Attorney General is requesting a total of 3,097 permanent positions, 3,126 FTE workyears and \$200,277,000 for the General Legal Activities appropriation in 1986. This request represents a decrease from the anticipated 1985 appropriation of \$1,928,000. Included in the anticipated 1985 appropriation is a supplemental request of 28 permanent positions, 7 FTE workyears, and \$400,000 to address additional requirements in the Criminal Division resulting from passage of the Comprehensive Crime Control Act of 1984 (P.L. 98-473), and additional requirements of 27 positions, 27 FTE workyears and \$948,000 for the U.S. National Central Bureau, INTERPOL to provide sufficient direct staffing and program funding to allow it to meet its basic mission responsibilities.

The General Legal Activities appropriation supports the Attorney General through the establishment of litigative policy, the conduct of litigation and the performance of other legal responsibilities. The organizations, their major responsibilities and associated resource requirements are summarized below.

Conduct of Supreme Court proceedings and review of appellate matters

This activity is responsible for the conduct and supervision of all aspects of government litigation in the U.S. Supreme Court and approval of all Federal appellate actions to which the United States is a party. The 1986 request for the Solicitor General includes a program decrease of \$14,000 which is expected as a result of management improvements.

General tax matters

This activity is responsible for representation of the United States in both civil and criminal litigation arising under the internal revenue laws. In 1986, the Division is seeking a program decrease of \$527,000 which will be absorbed as the result of management improvements which will be realized through the decentralization of several administrative functions.

Criminal matters

The supervision of litigation or prosecution of offenses arising under most Federal criminal laws is conducted by this activity. The Criminal Division's request for 1986 includes a program decrease of \$618,000. This decrease is the result of cost reductions in the administrative management functions of the Division which are expected because of recent improvements in office automation and other automated systems. Also included in the Division's request is the annualized cost of the supplemental request in 1985 relating to the Comprehensive Crime Control Act of 1984.

#### Claims, customs and general civil matters

This activity has the responsibility for the general civil litigation of cases initiated by and brought against the United States or its officers. For 1986, the Division is requesting a decrease of \$469,000 as part of an overall effort to streamline and effect management improvements in administrative support functions. Through the use of automated systems in both litigation and management, the Division is achieving greater productivity and is improving its overall performance.

#### Land, natural resources and Indian matters

This activity conducts litigation of civil and criminal matters relating to areas such as the exploration and development of minerals and energy resources from federal lands, the control of pollution and hazardous waste, the conservation of wetland and wildlife, and the general protection of the physical environment and Indian affairs. In 1986, the Division is requesting a decrease in the Management and Administration program. The decrease results from improvements effected in 1984 and 1985 and reflects actions taken in the automated systems and administrative services areas. In addition, an increase in the allocation from the Environmental Protection Agency's Superfund will permit 25 additional workyears to be funded to conduct litigation.

#### Legal Opinion

This activity is responsible for serving as legal advisor to the President, the Attorney General and Executive agencies and for review of proposed Executive Orders and proclamations of the President as to form and legality. Also reviewed are proposed orders of the Attorney General and all regulations requiring the Attorney General's approval. The 1986 request includes a program decrease of \$9,000 which is expected as a result of management improvements.

#### Civil rights matters

Criminal and civil enforcement of federal civil rights laws, coordination of civil rights investigation and matters within the Department, monitoring certain civil rights decrees by order of federal courts, and assisting federal, state and local agencies in responding to and complying with federal civil rights laws are all responsibilities of this activity. The Division is requesting a decrease of \$469,000 in the Management and Administration program in 1986. This decrease will be accomplished through more effective use of ADP systems which will enhance the productivity of the staff.

#### INTERPOL-USINCB

This activity is responsible for the coordination of international law enforcement as the U.S. liaison to the International Criminal Policy Organization (INTERPOL). Included in the request for the U.S. National Central Bureau-INTERPOL is a supplemental request for 1985 of 27 positions, 27 FTE workyears and \$988,000 to fully staff and fund the organization to meet its basic liaison responsibilities. For 1986, the request for INTERPOL reflects a reduction of \$13,000 which is to be achieved through management improvements in the administrative services function.

Legal ActivitiesSalaries and expenses, General Legal ActivitiesProposed Authorization Language

The Department of Justice is requesting the following authorization language for the General Legal Activities appropriation:

Annual Legislative Proposal

For General Legal Activities, including not to exceed \$110,000 which may be transferred from the "Alien Property Funds, World War II," for the general administrative expenses of alien property activities and for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi War Criminals: \$200,277,000.

Permanent Legislative Proposal

The Offices, Divisions and Subdivisions included in the Salaries and expenses, General Legal Activities appropriation of the Department of Justice are authorized to make payments from their appropriation for:

- (a) the hire of passenger motor vehicle;
- (b) miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General, or the Assistant Attorney General for Administration;
- (c) expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General or the Deputy Attorney General;
- (d) advances of public moneys under 31 U.S.C. 3324;
- (e) necessary accommodations in the District of Columbia for conferences and training activities.

Legal ActivitiesSalaries and expenses, General Legal ActivitiesJustification of Proposed Changes in Appropriation Language

The 1986 budget estimates include proposed changes in appropriation language listed and explained below: New Language is underscored and deleted matter is enclosed in brackets.

Salaries and expenses, General Legal Activities

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; [\$194,163,000] ^ of which not to exceed \$6,000,000 for litigation support contracts shall remain available until September 30, [1986], and of which \$3,079,000 shall be for the Office of Special Investigations].

\$200,277,000  
1987

(28 U.S.C. 501, 505-506, 510-520, 524-525; 50 U.S.C. App. 6; Department of Justice and Related Agencies Appropriation Act, 1985; additional authorizing legislation to be proposed.)

Explanation of changes

1. The change deletes language which provided a minimum funding level for the Office of Special Investigations within the Criminal Division.

<u>Legal Activities</u> <u>Salaries and Expenses, General Legal Activities</u> <u>Grosswalk of 1985 Changes</u> (Dollars in thousands)												
Budget Activity	1985 President's Budget Request		Congressional Appropriation Actions on 1985 Request		Reprogramming 1985 Request		Supplementals Requested		Pay Proposed Resolutions	1985 Appropriation Anticipated		
	Pos.	Wt.	Pos.	Wt.	Pos.	Wt.	Pos.	Wt.		Pos.	Wt.	
1. Conduct of Supreme Court proceedings and review of appellate matters...	45	54	...	...	...	...	...	...	...	45	54	\$3,615
2. General tax matters...	634	616	...	...	-2,483	...	...	...	462	634	616	\$2,684
3. Criminal matters...	734	705	-6	-5	-2,659	...	...	28	763	756	707	\$3,166
4. Claims, customs and general civil matters...	852	858	-20	-15	-3,287	...	...	...	1,019	832	843	\$8,816
5. Land, natural resources and Indian matters...	347	338	...	...	-610	...	...	...	374	347	338	\$2,317
6. Legal opinions...	35	39	...	...	-40	...	...	...	40	35	39	\$2,259
7. Civil rights matters...	406	425	-2	-1	-432	...	...	...	444	404	424	\$2,624
8. INTERPOL...	17	17	...	...	-5	...	...	27	948	44	44	\$2,851
9. Independent Counsel...	...	...	...	...	...	...	...	...	...	...	...	30
Total.....	3,070	3,052	203,720	-28	-21	-9,557	...	...	55	34	1,348	3,308
										470	3,097	3,065
												198,349

## Explanation of Changes from 1985 Appropriation Request

## Congressional Appropriation Actions

Congress reduced the Standard Level User Charge request by \$2,626,000, cut 26 positions and \$1,973,000 from staff. Increases requested for the Criminal and Civil Divisions and cut two positions and \$4,958,000 from ADP and Information systems activities throughout the appropriation.

## Reprogramming

A reprogramming of \$30,000 from the Tax, Criminal, Civil, Lands and Civil Rights Divisions is necessary in 1985 to fund the close-out of the Independent Counsel who was appointed in 1984 to investigate allegations of wrongdoing on the part of the nominee for Attorney General.

## Supplementals Requested

- The supplemental request of 55 positions and \$1,348,000 includes 28 positions and \$400,000 for the Criminal Division to meet additional requirements as a result of the Comprehensive Crime Control Act of 1984, and 27 positions and \$948,000 to meet urgent requirements of the U.S. National Central Bureau, INTERPOL to sustain effective international law enforcement capabilities.
- The pay request provides \$3,308,000 to meet increased pay requirements (Executive Order 12496, dated December 28, 1984).

## Proposed Reactions

In accordance with Section 2901 of the Deficit Reduction Act, \$470,000 is proposed for reaction in the travel and transportation, printing and other services areas.

Legal Activities  
Salaries and expenses - General Legal Activities  
Summary of Requirements  
(Dollars in thousands)

	1984 Budget			1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perma.	WT	Amount	Perma.	WT	Amount	Perma.	WT	Amount	Perma.	WT	Amount	Perma.	WT	Amount	Perma.	WT	Amount
<u>Estimates by budget activity</u>	<u>Pos.</u>		<u>Pos.</u>	<u>Pos.</u>		<u>Pos.</u>	<u>Pos.</u>		<u>Pos.</u>	<u>Pos.</u>		<u>Pos.</u>	<u>Pos.</u>		<u>Pos.</u>	<u>Pos.</u>		<u>Pos.</u>
1. Conduct of Supreme court proceedings and review of appellate matters.....	45	54	\$3,430	45	52	\$3,240	45	54	\$3,602	45	54	\$3,570	45	54	\$3,664	...	...	-114
2. General tax matters.....	510	520	26,104	510	572	26,054	634	616	32,484	634	644	34,097	634	644	33,570	...	...	-527
3. Criminal matters.....	704	679	37,283	704	660	37,143	756	707	43,166	756	728	44,581	756	728	43,963	...	...	-618
4. Claims, customs and general civil matters..	785	800	57,668	785	762	54,621	832	843	68,816	832	855	69,866	832	855	69,397	...	...	-469
5. Land, natural resources and Indian matters.....	329	320	19,833	329	328	19,696	347	338	22,317	347	338	22,590	347	338	22,227	...	...	-363
6. Legal opinions.....	35	35	2,054	35	36	1,984	35	35	2,269	35	35	2,226	35	35	2,217	...	...	-9
7. Civil rights matters.....	399	416	20,700	399	410	20,669	444	424	22,624	444	424	22,821	444	424	22,352	...	...	-469
8. INTRACO.....	6	17	1,815	6	22	1,727	44	44	2,051	44	44	2,300	44	44	2,087	...	...	-13
9. Independent Counsel.....	...	...	300	...	...	250	...	...	30	...	...	...	...	...	...	...	...	...
10. Amort legal fees.....	450	450	150	450	450	150	...	...	...	...	...	...	...	...	...	...	...	...
Total.....	2,822	2,854	169,637	2,822	2,842	165,874	3,097	3,065	198,349	3,097	3,126	202,749	3,097	3,126	200,277	...	...	-2,472
Reimbursable PFR.....	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	...	...	...
Allocation (Supertund)...	42	42	2,890	42	42	2,890	62	62	3,133	62	62	3,194	62	62	3,219	...	...	25
Total PFR ceiling.....	2,902	2,902	2,902	2,902	2,902	2,902	3,133	3,133	3,133	3,133	3,133	3,194	3,133	3,133	3,219	...	...	...
Holiday & Overtime.....	27	27	27	27	27	27	31	31	31	31	31	31	31	31	31	...	...	3
Total, compensable workyears.....	2,929	2,929	2,929	2,929	2,929	2,929	3,164	3,164	3,164	3,164	3,164	3,225	3,164	3,164	3,253	...	...	28



Legal Activities  
Salaries and expenses, General Legal Activities  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985		1986 Total
		Authorized	Supplemental Request	
Attorneys (950).....	1,457	1,591	12	1,603
Paralegal Specialists (950)	197	209	3	212
Other Legal and Kindred				
(900-998).....	72	72	...	72
Social Sciences, Economics				
and Kindred (100-199)....	23	23	...	23
Personnel Mgmt. (200-299)...	1	1	...	1
General Admin. Clerical and				
Office Svc. (300-399)....	1,044	1,117	39	1,156
Accounting & Budget				
(500-599).....	19	19	...	19
Information and Arts Group				
(1000-1099).....	1	1	1	2
Supply Group (2000-2099)...	1	1	...	1
Other Misc. (001-099).....	7	8	...	8
Total.....	2,822	3,042	55	3,097
Washington.....	2,526	2,743	55	2,798
U.S. Field.....	295	298	...	298
Foreign Field.....	1	1	...	1
Total.....	2,822	3,042	55	3,097

General Legal Activities  
Salaries and expenses  
Summary of Adjustments to Base  
(Dollars in thousands)

	Perm. Pos.	Work- years	Amount
1985 as enacted.....	3,042	3,031	\$194,163
Supplementals requested:			
Pay increase supplemental requested:			Amount
Increased pay costs.....			\$3,421
Amount absorbed.....			-113
Net pay supplementals.....			3,308
Program supplementals requested:			
COCA.....	28	7	400
INTERPOL Staffing.....	27	27	948
Proposed Reallocation.....	...	...	-470
1985 appropriation anticipated.....	3,097	3,065	198,349
Adjustments to base:			
Savings resulting from management initiatives.....	...	...	-4,299
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....	...	...	305
Restoration of Independent Counsel funds to Divisions.....	...	...	30
Annualization of 1985 pay increases.....	...	...	1,767
Annualization of additional positions approved in 1985.....	...	61	3,082
Within-grade increases.....	...	...	1,135
Health Benefits.....	...	...	242
GPO printing costs.....	...	...	45
GSA recurring reimbursable services.....	...	...	43
Federal Telecommunications Systems (FTS) rate increase.....	...	...	198
Departmental telecommunications.....	...	...	244
Automated legal research and litigation support.....	...	...	78
General pricing level adjustment.....	...	...	1,900
Foreign allowance.....	...	...	3
Private counsel.....	...	...	47
Foreign counsel.....	...	...	36
Total, uncontrollable increases.....	...	61	9,157
Decreases (automatic non-policy):			
Non-recurring cost for equipment.....	...	...	-390
Non-recurring cost for Independent Counsel.....	...	...	-30
Rate decrease for full-field investigations.....	...	...	-38
Total, decreases.....	...	...	-458
1985 Base.....	3,097	3,126	202,749

Legal Activities  
Salaries and expenses, General Legal Activities  
Justification of Adjustments to Base  
(Dollars in thousands)

	<u>Total FTE</u>	<u>Budget Authority</u>
<u>Savings resulting from management initiatives:</u>		
1. Five percent pay reduction.....	...	...
Savings of \$4,299,000 will be realized as a result of the proposed 5 percent pay reduction in salaries for federal civilian employees.		-\$4,299

Uncontrollable Increases:

- |  |     |       |
|--|-----|-------|
| 1. Restoration of reduction for change in hourly rate.....   | ... | 305   |
| Section 310 (b) (1) of the Omnibus Reconciliation Act of 1982 required that for 1984 and 1985 pay be computed on the basis of 2,087 workhours. These funds were withdrawn from the 1984 budget. For 1986 the basis for computing pay reverted to 2,080 workhours and restoration of the \$305,000 reduced in 1984 is required to fund the change in the hourly rate. |     |       |
| 2. Restoration of funds reprogrammed to the Independent Counsel.....   | ... | 30    |
| In 1985, \$30,000 was required to fund the close-out expenses of the office of the Independent Counsel. This increase in each of the Divisions is offset by a nonrecurring decrease for the appropriation.   |     |       |
| 3. Annualization of 1985 pay increase.....   | ... | 1,767 |
| This provides for the annualization of the January 6, 1985 pay increase contained in Executive Order 12896 dated December 28, 1984. There are 261 compensable days in 1985 and 70 paid days (October 1, 1984 through January 5, 1985) were not included in the pay raise amount of \$1,308,000. Additionally, \$113,000 of the request was absorbed.                 |     |       |
| 4. Annualization of additional positions approved in 1985.....   | 61  | 3,082 |
| This provides for the annualization of 220 additional positions approved in 1985 and 55 additional positions requested in the 1985 supplemental request.   |     |       |

	<u>Approved 1985 Increases</u>	<u>Annualization Required</u>
Annual salary rate of 275 positions in 1985.....	\$11,107,296	...
Less lapse.....	-2,776,824	\$2,776,824
Net compensation.....	8,330,472	2,776,824
Associated employee benefits.....	916,269	305,423
Total costs subject to annualization.....	9,246,741	3,082,247

	<u>Total PTE</u>	<u>Budget Authority</u>
5. Within-grade increases..... This request provides for an increase in the cost of within-grade increases. This increase is generally consistent with increases experienced in recent years and is approximately one percent above the base for compensation and related benefits for permanent employment. (Personnel compensation \$1,022,026 and benefits \$112,974 = \$1,135,000).	...	\$1,135
6. Health Benefits costs..... The Federal Employees' Health Benefits Act (P.L. 93-246) provided that the Government's share of health insurance would be 60 percent of the total rate commencing in 1975. Effective the first pay period after January 1, 1984, the Government's contribution to health insurance increased approximately 12 percent due to both carrier rate increases and changes in enrollment plans. The requested increase of \$242,000 provides funds for increased costs from pay period No. 2 (\$86,191) to pay period No. 3 (\$95,499) projected for 26 pay periods.	...	242
7. GPO printing costs..... The Government Printing Office (GPO) is currently projecting a five percent increase over the 1985 printing cost of \$940,000. An additional \$45,000 will be required in 1985.	...	45
8. NSA recurring reimbursable services..... Reimbursable payments are made to NSA for heating, ventilation and air conditioning provided in excess of normal working hours and for guard services. NSA estimates a 5 percent increase over 1985 charges.	...	43
9. Federal Telecommunications System (FIS)..... The FIS increase reflects the advance billing provided to the Department of Justice by the General Services Administration. In 1986, the uncontrollable increase will be \$198,000 over the 1985 base of \$1,938,000.	...	198
10. Department Telecommunications..... Expenses for equipment, installation and commercial tolls (to include message units and directory assistance) have increased dramatically since April, 1984. An increase was not requested in 1985 due to the uncertainties surrounding industry restructuring and deregulation. Annualization of the current level of billing indicates that 1986 expenses will be approximately 14 percent higher than 1985 estimated expenses, requiring an uncontrollable increase of \$244,000.	...	\$244

	Total FTE	Budget Authority
11. Automated legal research and litigation support services..... Centralized JIRIS, litigation support and case management services are available for all organi- zations through the Departmental Working Capital Fund (MCP). The MCP is projecting an increase of 5 percent over projected FY 1985 costs of \$1,520,000.	...	78
12. General pricing level adjustment..... This request applies OMB pricing guidance as of July 1984 to selected expense categories. The increased costs identified result from applying a factor of 4.4 percent against those sub-object classes where the prices that the Government pays are established through the market system instead of by law or regulation. Generally, the factor is applied to supplies, materials, equipment, contracts with the private sector, transportation costs and utilities. Excluded from the computation are categories of expense where inflation has already been built into the 1986 estimates.	...	1,900
13. Foreign allowances..... Allowances for Government employees in foreign areas are determined by the Department of State. The State Department anticipates a 11.4 percent increase in 1986. The requested increase of \$3,000 provides 11.4 percent more than the \$26,000 budgeted for 1984.	...	3
14. Private Counsel..... This request provides necessary funds to cover estimated increases in 1985 fees for private attorneys retained by the Civil Division to defend Government officials sued in their official capacity.	...	47
15. Foreign Counsel..... This covers the uncontrollable costs resulting from increases in the statutory tariffs charged by foreign governments for attorneys to represent the United States in criminal and civil proceedings.	...	38
Total, uncontrollable increases.....	61	9,157

		Total FTE	Budget Authority
<u>Decreases (automatic non-policy):</u>			
1.	Nonrecurring costs for equipment..... Included are costs for equipment purchased on a one-time basis by the Tax, Civil and Civil Rights Divisions and the Office of Legal Counsel.	...	-4390
2.	Nonrecurring cost for Independent Counsel..... In 1985, \$30,000 was reprogrammed from the Division to fund close-out costs of the Independent Counsel. No planned further funding is necessary for this purpose in 1986.	...	-30
3.	Rate decrease for full-field investigation..... The Office of Personnel Management (OPM) has notified users of a \$175 reduction below the FY 1984 base cost of \$1,550 charged for each full-field investigation. The uncontrollable decrease is calculated on average accession of 217 persons per year for a total reduction of \$38,000. Total decreases.....	...	-38
Total, adjustments to base.....		61	-458
			4,400

Legal Activities  
Salaries and expenses, General Legal Activities  
Financial Analysis - Program Changes  
(Dollars in thousands)

Item	Office of Solicitor General		Tax matters		Criminal matters		Claims, customs and general civil matters		Land, natural resources and Indian matters		Office of Legal Counsel		Civil rights matters		USCB/INTERPOL		Total	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
Lease (-).....	...	...	...	-4460	...	-4432	...	...	...	...	...	...	...	462	...	...	...	-4994
Overtime and holiday.....	...	...	...	...	...	...	...	...	...	-420	...	...	...	...	...	...	...	-20
Total workyears and pers. compensation.....	...	...	...	-460	...	-432	...	...	...	-20	...	...	...	-62	...	...	...	-974
Personnel benefits.....	...	...	...	-67	...	-46	...	...	...	...	...	...	...	...	...	...	...	-113
Travel and transpor- tation of persons.....	...	...	...	...	...	-14	...	...	...	-10	...	...	...	-815	...	...	...	-29
Trans. of things.....	...	...	...	...	...	-5	...	-810	...	...	...	...	...	-3	...	...	...	-28
Standard level user charges.....	...	...	...	...	...	-78	...	...	...	...	...	...	...	-67	...	...	...	-145
Comm., utilities and other rent.....	...	...	...	...	...	-16	...	-189	...	-60	...	...	...	-143	...	...	...	-368
Printing.....	...	...	...	...	...	-7	...	-15	...	-10	...	...	...	-16	...	...	...	-48
Other services.....	...	...	...	...	...	-17	...	-200	...	-188	...	...	...	-142	...	...	...	-583
Supplies.....	...	...	...	...	...	-3	...	-60	...	-20	...	...	...	-15	...	...	...	-98
Equipment.....	...	...	...	...	...	...	...	-32	...	-45	...	...	...	-6	...	...	...	-66
Total	...	-14	...	-527	...	-618	...	-469	...	-353	...	9	...	-869	...	-13	...	-2,472

Legal Activities  
Salaries and expenses, General Legal Activities  
Summary of Requirements by Grade and Object Class

Grades and salary ranges	1985 Estimate		1986 Estimate		Increase/Decrease	
	Positions & Workyears	Amount	Positions & Workyears	Amount	Positions & Workyears	Amount
Executive Level III, \$73,600.....	1		1		...	
Executive Level IV, \$72,300.....	6		6		...	
ES-5, \$70,500.....	10		10		...	
ES-4, \$68,700.....	77		77		...	
ES-3, \$66,232.....	9		9		...	
ES-2, \$63,764.....	9		9		...	
ES-1, \$61,296.....	13		13		...	
OS/OM-15, \$52,262 - \$67,940.....	632		632		...	
OS/OM-14, \$44,430 - \$57,759.....	473		473		...	
OS/OM-13, \$37,599 - \$48,876.....	295		295		...	
OS-12, \$31,619 - \$41,105.....	184		184		...	
OS-11, \$26,381 - \$34,292.....	154		154		...	
OS-10, \$24,011 - \$31,211.....	11		11		...	
OS-9, \$21,804 - \$28,347.....	161		161		...	
OS-8, \$19,740 - \$25,662.....	119		119		...	
OS-7, \$17,824 - \$23,170.....	424		424		...	
OS-6, \$16,040 - \$20,855.....	266		266		...	
OS-5, \$14,390 - \$18,710.....	129		129		...	
OS-4, \$12,862 - \$16,723.....	71		71		...	
OS-3, \$11,458 - \$14,896.....	45		45		...	
OS-2, \$10,501 - \$13,216.....	8		8		...	
Total, appropriated positions.....	3,097	\$111,333	3,097	\$108,945	...	-\$2,388
Pay above stated annual rate.....	...	428	...	420	...	-8
Lapses.....	-131	-4,455	-70	-2,380	61	2,075
Net savings due to lower pay scales for part of year	...	-945	...	...	...	945
Net permanent.....	2,966	106,361	3,027	106,565	61	624
Average ES Salary.....		(\$67,472)		(\$64,773)		
Average OS/OM Salary.....		(34,610)		(33,807)		
Average OS/OM (grade).....		(10.77)		(10.77)		



Legal Activities  
Salaries and expenses, General Legal Activities  
Summary of Requirements by Grade and Object Class  
(Dollars in thousands)

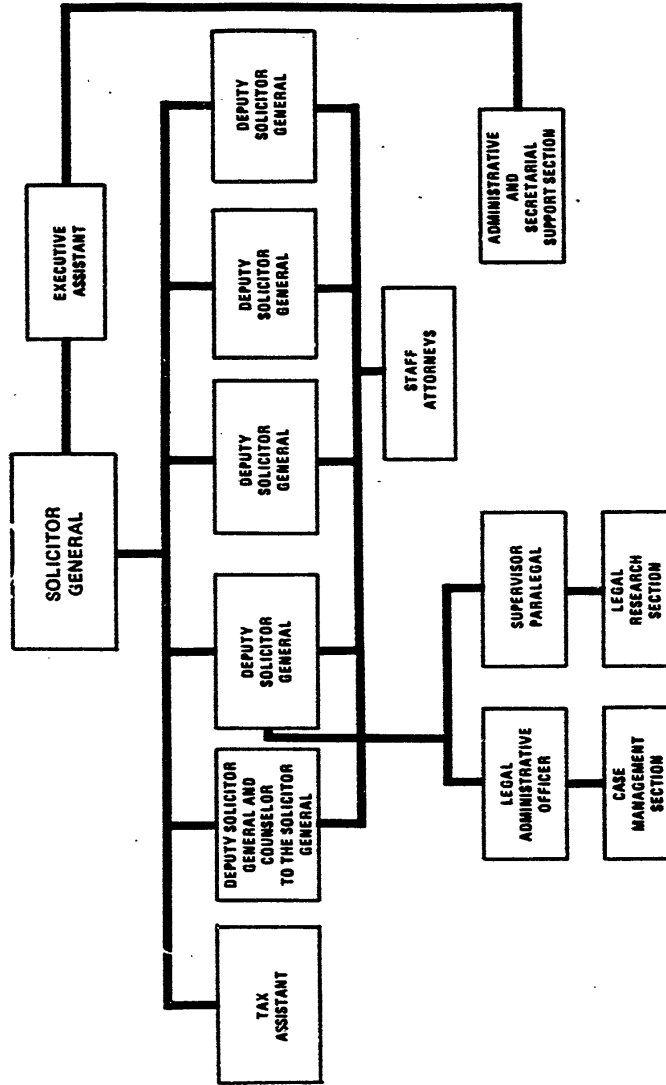
Object Class	1985 Estimate Workyears Amount	1986 Estimate Workyears Amount	Increase/Decrease Workyears Amount
11.1 Full-time permanent.....	2,966 \$106,361	3,027 \$106,985	61 \$624
11.3 Other than full-time permanent:			
Part-time permanent.....	66 2,755	66 2,665	... -90
Temporary employment.....	33 1,357	33 1,313	... -44
Other part-time intermittent employment..	... ..	... ..	... ..
11.5 Other personnel compensation:			
Overtime.....	... 526	... 501	... -25
Other compensation.....	... 1,867	... 1,777	... -90
11.8 Special personnel services payments.....	... 685	... 677	... -8
Total, workyears and personnel compensation.....	3,065 113,551	3,126 113,918	61 367
12 Personnel benefits.....	12,234	12,450	216
13 Benefits for former personnel.....	47	47	...
21 Travel and transportation of persons.....	9,347	9,675	328
22 Transportation of things.....	782	839	57
23.1 Standard level user charges.....	14,902	14,870	-32
23.2 Comm. utilities and other rent.....	13,312	13,948	636
24 Printing and reproduction.....	1,825	1,964	139
25 Other services.....	30,272	27,551	-2,721
26 Supplies and materials.....	2,040	2,138	98
31 Equipment.....	2,792	2,532	-260
41 Grants, subsidies and contributions.....	35	35	...
91 Unvouchered.....	20	20	...
Total obligations.....	201,449	200,277	-1,172
Unobligated balance, start-of-year.....			
Unobligated balance, end-of-year.....	-3,100	...	3,100
Total requirements.....	198,349	200,277	1,928
Relation of obligations to outlays:			
Total obligations.....	201,449	200,277	
Obligated balance, start-of-year.....	23,917	27,955	
Obligated balance, end-of-year.....	-27,955	-31,934	
Outlays.....	197,411	196,298	

<u>Legal Activities</u>			
<u>Salaries and expenses, General Legal Activities</u>			
<u>Consulting and Related Services</u>			
<u>(Dollars in thousands)</u>			
	<u>1984 Actual</u>	<u>1985 Estimate</u>	<u>1986 Estimate</u>
Consulting Services.....	\$555	\$674	\$704
Management and Professional Services.....	...	...	...
Special Studies and Analysis.....	...	...	...
Total.....	555	674	704

Consulting and related services are used in the General Legal Activities appropriation only for services which cannot be performed in-house. Services are required primarily for the development and implementation of automated litigation support projects. To a lesser extent, consultants are occasionally employed to render technical or expert advice without the requirement to testify in court, and in these few cases they would be employed as consultants rather than expert witnesses.

The 1985 estimate reflects a Section 2901 reduction of \$181,000 from the original base level estimate of \$855,000. The estimate for 1986 reflects only a growth factor allowed by the general pricing level increase.

## OFFICE OF THE SOLICITOR GENERAL



Approved: *William French Smith* Date: *1/29/82*  
 William French Smith  
 Attorney General

Solicitor General  
Salaries and expenses, General Legal Activities

<u>Summary of Requirements</u> (Dollars in thousands)		<u>Perm.</u> <u>Pos.</u>		<u>Work-</u> <u>Years</u>		<u>Amount</u>	
<u>Adjustments to base:</u>							
1985 as enacted.....		45		1/4		\$3,574	
1984 pay supplemental requested:							
Increased pay costs.....							
Amount absorbed.....	457						
Net pay supplemental.....	-5						
Proposed rescission.....						62	
1985 appropriation anticipated.....		45		5/4		3,602	
Savings resulting from management initiatives:							
Five Percent Pay Reduction.....							
Uncontrollable increases:						-84	
Restoration of reduction for change in hourly rate.....							
Annualization of 1985 pay increase.....						2	
Within-grade increases.....						37	
Health benefits costs.....						22	
GPO printing costs.....						1	
USA recurring reimbursable services.....						21	
Federal Telecommunications System (FIS).....						1	
Department telecommunications.....						2	
Automated legal research and litigation support services.....						4	
General pricing level adjustment.....						3	
Total, uncontrollable increases.....						65	
Decreases:							
Rate decrease for full-field investigations.....		45		5/4		-2	
1986 Base.....						3,678	
<u>Estimates by budget activity</u>							
1. Conduct of Supreme Court							
proceedings and review							
of appellate matters....		45				54	-14

**Solicitor General**

## Salaries and expenses, General Legal Activities

## Justification of Program and Performance

**Activity Resource Summary  
(Dollars in thousands)**

**Activity:** Conduct of Supreme Court proceedings and review of appellate matters

**1985 Appropriation  
Anticipated**

...	Pos.	WY	Amount
...	...	...	-114

Perm.	WY	Amount
Pos.	54	\$3,664
<u>45</u>		
1900 Estimate		

Perin.	WT	Amount
<u>Poz.</u>	<u>54</u>	<u>\$3,678</u>
45		

**Federal appellate activity.....**

The Office of the Solicitor General is responsible for conducting and supervising all aspects of government litigation in the Supreme Court of the United States. The Office also acts upon every case in which a decision is rendered in any court against the United States to determine whether an appeal will be undertaken. In addition, the Solicitor General also determines whether the Federal Government should file a brief *amicus curiae* in any case of particular interest in any appellate court.

Long-Range Goal: To be as effective as possible in the conduct of all aspects of government litigation in the appellate courts and the U.S. Supreme Court.

**Major Objectives:**

To adequately represent the interests of the U.S. Government in cases before the Supreme Court.

To review appellate cases to determine their suitability for appeal to the U.S. Supreme Court or to a lower Federal Appellate Court.

To meet all filing dates of cases before the U.S. Supreme Court.

Base Program Description: The major function of the Solicitor General's Office is to supervise the handling of government litigation in the Supreme Court of the United States.

The Office of the Solicitor General is the Government's foremost legal office. The original Statutory Authorization Act of June 22, 1870, states: "Where shall be in the Department of Justice an officer learned in the law, to assist the Attorney General in the performance of his duties to be called the Solicitor General." As stated in 28 C.F.R. 0.20, the general functions of the Office are as follows: (1) conducting, or assisting and supervising all Supreme Court cases, including appeals, petitions for and in opposition to certiorari, briefs and arguments; (2) determining whether, and to what extent, appeals will be taken by the Government to all appellate courts (including petitions for rehearing en banc and petitions to such courts for the issuance of extraordinary writs); (3) determining whether a brief amicus curiae will be filed by the Government, or whether the Government will intervene, in any appellate court; (4) assisting the Attorney General, the Deputy Attorney General and the Associate Attorney General in the development of broad Department program policy.

Accomplishments and Workload: Recent accomplishments and workload of the Office of the Solicitor General are presented as follows:

	Estimates	
	1985	1986
Cases:		
Pending, beginning of term.....		
Received.....	364	376
Terminated.....	1,690	1,690
Pending, end of term.....	1,678	1,678
	376	388
Other Activities:		
Appellate determination.....	1,372	1,441
Certiorari determinations.....	657	690
Miscellaneous recommendations - 1/.....	332	349

Note: All figures for Cases are based on Supreme Court terms; Other Activities figures are based on fiscal years. The workload of the Office can be expected to increase because of the increase in the number of district court and court of appeals decisions that will result from the authorization in Title II of Public Law No. 98-353 for the appointment of 24 additional circuit judges and more than 60 additional district court judges.

1/Miscellaneous decisions include the following: amicus participation, mandamus, rehearing, settlement, bills, stays, etc. This figure does not include oral arguments in the Supreme Court, conferences, correspondence, etc.

Government cases handled by the Office of the Solicitor General included those that resulted in the following decisions by the Supreme Court during the 1983 Term: (1) the Fourth Amendment exclusionary rule does not bar the admission of evidence seized in reasonable reliance on a search warrant subsequently held to be defective (*United States v. Leon* and consolidated cases); (2) the Secretary of the Interior's sale of outer continental shelf oil and gas leases is not an activity directly affecting the coastal zone that is subject to a state plan under the Coastal Zone Management Act (*Secretary of the Interior v. California*); (3) the federal government is not collaterally estopped from litigating an issue because that issue was decided against the government in a different case involving other parties (*United States v. Mendoza*); (4) the provisions of the Federal Insecticide, Fungicide and Rodenticide Act regarding EPA's use and disclosure of health and safety data pertaining to a pesticide are a valid exercise of Congress's legislative powers (*Juckelslaus v. Monsanto Co.*); (5) a college whose students receive Basic Educational Opportunity Grants is a recipient of federal financial assistance subject to the prohibition in Title IX of the Education Amendments

of 1972 against sex discrimination (Urove City College v. Bell); (6) the EPA may allow a state to adopt a plant-wide approach to new source review under the Clean Air Act in nonattainment areas if the state's plan provides for timely attainment of air quality standards (Cleveland U.S.A. v. Natural Resources Defense Council); (7) the procedures of the Immigration and Naturalization Service for investigating the presence of illegal aliens in places of employment do not violate the Fourth Amendment (INS v. Delgado); (8) a court may not impose fixed deadlines for holding hearings on claims for disability benefits under the Social Security Act (Heckler v. Day); (9) the Fourth Amendment exclusionary rule does not apply in deportation proceedings under the Immigration laws (INS v. Lopez-Mendoza); and (10) the statutory provision barring persons who fail to register for the draft from receiving assistance under Title IV of the Higher Education Act of 1965 is not a bill of attainder and does not compel such persons to incriminate themselves in violation of the Fifth Amendment (Selective Service System v. Minnesota Public Interest Research Group).

The Office of the Solicitor General filed briefs as a friend of the Court in many other cases, during the 1983 Term, including cases in which the Court held that: (1) a municipality's inclusion of a nativity scene in an annual traditional Christmas display does not violate the Establishment Clause of the First Amendment (Lynch v. Donnelly); (2) Title VII of the Civil Rights Act of 1964 prohibits a law firm from discriminating on the basis of sex in selecting its associates for partnership (Hickson v. King & Spalding); (3) Title VII of the Civil Rights Act of 1964 does not permit a court to disregard an established seniority plan and to modify a consent decree governing the hiring and promotion of black employees to provide that white employees with greater seniority must be laid off before black employees (Firefighter v. Stotts); (4) the Warsaw Convention setting a limit on air carrier liability was not rendered unenforceable by the Fair Value Modification Act of 1978 setting an official price for gold and the minimum per pound liability established by the Civil Aeronautics Board is valid (TWA v. Franklin Mint Corp.); (5) a convicted defendant, in order to have his conviction set aside on the ground of ineffective assistance of counsel, must show serious errors by counsel and a reasonable probability that the result would have been different but for counsel's errors (Strickland v. Washington); (6) a corporation and its wholly-owned subsidiary are incapable of conspiring with each other for purposes of Section 1 of the Sherman Act (Copperweld Corp. v. Independence Tube Corp.); (7) the exclusionary rule does not bar admission in a criminal trial of physical evidence obtained by the use of statements obtained in violation of the Sixth Amendment if the evidence would inevitably have been lawfully discovered by police officers (Mia v. Williams).

Cases to be heard during the Supreme Court's 1984 Term in which the Solicitor General's Office has filed a brief include those arguing that: (1) the doctrine of intergovernmental immunity recognized in National League of Cities v. Usery does not bar application of the Fair Labor Standards Act to employees of a publicly owned mass transit system (Garcia v. San Antonio Metropolitan Transit); (2) a school principal may search a student's purse without a warrant on the basis of reasonable suspicion that it contains evidence of a violation of a school rule (New Jersey v. TLO); (3) the Supreme Court ruled in favor of the government's position in an opinion dated January 15, 1985; (4) the Establishment Clause of the First Amendment does not prohibit public school teachers from commencing the school day with a moment of silence during which students may engage in silent meditation or voluntary prayer (Wallace v. Jaffree); (5) the Establishment Clause does not prohibit the furnishing of instruction as part of a remedial and enrichment program on premises leased from religiously-oriented non-public schools (School District of Grand Rapids v. Ball and Aguilar v. Felton); (6) the Food and Drug Administration's decision not to regulate the use of States, in carrying out capital punishment by lethal injection, of drugs that have been approved for other purposes was not subject to judicial review and was not arbitrary and capricious (Heckler v. Chaney); and (6) the government's method of choosing persons to be prosecuted for failing to register for the draft is not unconstitutional (Wayte v. United States).

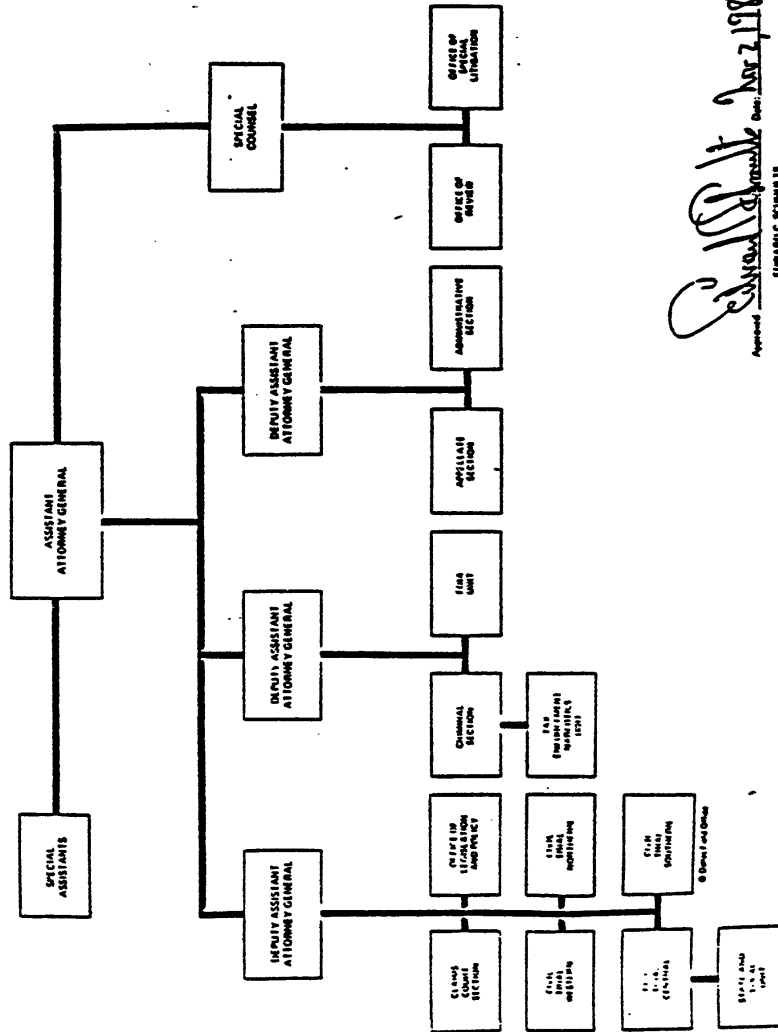
Program Changes: The 1986 request for the Office of the Solicitor General includes a decrease of \$14,000 which is expected as a result of management improvements.

Solicitor General  
Salaries and expenses, General Legal Activities  
Detail of Permanent Positions by Category  
Fiscal Years 1984-1986

Category	1984 Authorized	1985 Authorized	1986 Request
Attorneys (905).....	20	20	20
General Admin., Clerical and Office services (300-399).....	15	15	15
Paralegal Specialists (950).....	6	6	6
Other Legal and Kindred (900-998).....	4	4	4
Total.....	45	45	45
Washington.....	45	45	45
Total.....	45	45	45



## TAX DIVISION



Approved: Edmund Byrne Date: Jan 7, 1963  
 LEOARD C. SCITUALE, TS  
 Deputy Attorney General

Tax DivisionSalaries and expenses, General Legal ActivitiesCrosswalk of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request			Congressional Appropriation Actions on 1985 Request			Reprogrammings			1985 Pay Supplemental Requested			1985 Appropriation Anticipated		
	Pos.	NY	Amt.	Pos.	NY	Amt.	Pos.	NY	Amt.	Pos.	NY	Amt.	Pos.	NY	Amt.
Federal appellate activity .....	90	91	\$4,853	...	...	-\$124	...	...	...	87	91	\$87	90	91	\$4,816
Criminal tax prosecution .....	106	104	6,295	...	...	-98	...	...	...	99	106	104	106	104	6,296
Civil tax litigation activity .....	331	303	16,617	...	...	-343	...	...	...	290	331	303	331	303	16,564
Organized crime drug enforcement ..	9	7	599	...	...	-8	...	...	...	7	9	7	9	7	598
Management and administration .....	98	111	6,219	...	...	-1,910	...	...	-\$5	106	98	111	98	111	4,410
Total .....	634	616	34,583	...	...	-2,483	...	...	-\$5	\$589	634	616	634	616	32,684

Explanation of Analysis of Changes from 1985 Appropriation RequestCongressional Appropriation Actions

A requested increase of \$1,825,000 for automated litigation support activities was denied. In addition, SUC availability was reduced by \$659,000.

Reprogramming

A reprogramming of \$5,000 to fund the close-out of the Independent Counsel is necessary in 1985.

Explanation of Supplementals Requested

The pay request provides \$589,000 to meet increased pay requirements. (Executive Order 12496, dated December 28, 1984.)

Tax DivisionSalaries and Expenses, General Legal ActivitiesAdjustments to base:

	Perm. Pos.	Work- years	Amount
1985 as enacted .....	634	616	\$32,100
1985 Pay supplemental requested:			Amount
Increased pay cost .....			\$597
Amount absorbed .....			-8
Net pay supplemental .....			589
Reprogramming to Independent Counsel .....	...	...	-5
1985 appropriation anticipated .....	634	616	32,684
Savings resulting from management initiatives:			
Five percent pay reduction .....	...	...	-750
Uncontrollable increases:			
Restoration of reduction for change in hourly rate .....	...	...	43
Restoration of reprogrammed funds .....	...	...	5
Annualization of 1985 pay supplemental .....	...	...	313
Annualization of additional positions approved in 1985 .....	...	28	1,391
Within-grade increases .....	...	...	239
Health benefits costs .....	...	...	50
GPO printing costs .....	...	...	3
GSA recurring reimbursable services .....	...	...	8
Federal Telecommunications System (FTS) rate increase .....	...	...	43
Department telecommunications .....	...	...	39
Automated legal research and litigation support services .....	...	...	5
General pricing level adjustment .....	...	...	248
Total uncontrollable increases .....	...	28	2,387
Decreases (automatic non-policy):			
Nonrecurring costs for equipment .....	...	...	-212
Rate decrease for full-field investigations .....	...	...	-12
Total decreases .....	...	...	-224
1986 Base .....	634	644	34,097

1985 Appropriation

1984 Actual	1986 Base	1986 Estimate
Perm. Pos.	Perm. Pos.	Perm. Pos.
519	634	634

1985 Appropriation	1986 Base	1986 Estimate
Perm. Pos.	Perm. Pos.	Perm. Pos.
634	634	634

1985 Appropriation	1986 Base	1986 Estimate
Perm. Pos.	Perm. Pos.	Perm. Pos.
634	634	634

Estimates by budget activity

2. General tax matters .....	1984 Actual	1986 Base	1986 Estimate
	Perm. Pos.	Perm. Pos.	Perm. Pos.
	519	634	634

Tax Division  
Salaries and expenses, General Legal Activities  
Summary of Resources by Program  
(Dollars in thousands)

Program	1984 as Enacted			1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount
estimates by Program																		
General tax matters:																		
Federal appellate activity.....	90	91	\$4,173	90	86	\$4,089	90	91	\$4,816	90	91	\$4,855	90	91	\$4,855	...	...	...
Criminal tax prosecution.....	90	91	4,868	90	94	4,720	106	104	6,296	106	107	6,452	106	107	6,452	...	...	...
Civil tax litigation activity....	241	263	12,825	241	267	12,761	331	303	16,564	331	326	17,598	331	326	17,598	...	...	...
Organized crime drug enforcement..	...	...	...	...	...	137	9	7	598	9	9	689	9	9	689	...	...	...
Management and administration....	98	124	4,238	98	125	4,347	98	111	4,410	98	111	4,503	98	111	4,503	...	...	...
Total.....	519	569	26,104	519	572	26,054	634	616	32,684	634	644	34,097	634	644	33,570	...	...	-527
Reimbursable Workyears.....	3	3		3	3		...	...	...	...	...	...	...	...	...	...	...	...
Total FTE Ceiling.....	572	572		575	575		616	616		644	644		644	644		...	...	...
Other Workyears																		
Holiday.....	...	...		...	...		...	...		...	...		...	...		...	...	...
Overtime.....	12	12		2	2		12	12		12	12		12	12		...	...	...
Total compensable workyears.....	584	584		577	577		628	628		656	656		656	656		...	...	...

Tax DivisionSalaries and expenses, General Legal ActivitiesJustification of Program and PerformanceActivity Resource Summary  
(Dollars in thousands)

Activity: General tax matters	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Pos.			Pos.			Pos.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Federal appellate activity .....	90	91	\$4,816	90	91	\$4,855	90	91	\$4,855	...	...	...
Criminal tax prosecution .....	106	104	6,296	106	107	6,452	106	107	6,452	...	...	...
Civil tax litigation activity .....	331	303	16,564	331	326	17,598	331	326	17,598	...	...	...
Organized crime drug enforcement .....	9	7	598	9	9	689	9	9	689	...	...	...
Management and administration .....	98	111	4,410	98	111	4,503	98	111	3,976	...	...	...
Total .....	634	616	32,684	634	644	34,097	634	644	33,570	...	...	...

The Tax Division is responsible (with the assistance of the U.S. Attorneys) for all criminal tax prosecutions and all civil tax litigation, with the exception of proceedings in the United States Tax Court. While its principal client is the Internal Revenue Service, the Division also represents a variety of Federal agencies in issues of state and local taxation. An enormous variety of questions, necessarily involved in the administration of a complex tax system, come before the Division. The judicial resolution of these problems has wide application to large numbers of taxpayers and large fiscal impact. The Tax Division therefore must provide leadership, expertise, and consistent direction in Federal tax litigation to ensure that correct, precise, and uniform interpretations of the Internal revenue laws are obtained in the courts.

Activity: General tax matters	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Pos.			Pos.			Pos.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Federal appellate activity .....	90	91	\$4,816	90	91	\$4,855	90	91	\$4,855	...	...	...

Long-Range Goal: To ensure that the Government adopts and vigorously articulates correct and uniform positions on issues arising under the tax laws before the various Federal and state appellate courts, so that these laws will be fully and fairly enforced and so that tax administrators and the taxpaying public can obtain authoritative judicial guidance on those issues.

#### Major Objectives:

To maintain the quality of the Government's written and oral advocacy in those tax cases that are appealed to the various appellate courts, despite projected increases in the number of tax cases coming before these courts.

To ensure that recommendations as to whether to appeal adverse trial court determinations or to seek Supreme Court review of adverse appellate court determinations continue fully to protect the Government's and the public's interests in the correct and uniform interpretation of the Federal tax laws.

To maintain the quality of the draft briefs, petitions, and oppositions prepared for submission to the Solicitor General prior to their filing in the Supreme Court.

To develop interpretations of complex new tax statutes that are now coming before the appellate courts (e.g., the Bankruptcy Code, the Revenue Act of 1978, the Energy Tax Act of 1978, the Economic Recovery Tax Act of 1981, and the Tax Equity and Fiscal Responsibility Act of 1982), and to present those interpretations in such a persuasive manner as to maximize the chances that they will be adopted by the appellate courts.

To complete present program initiatives in the litigation management and word-processing areas, including expansion of the appellate workload management data base and the enhancement of appellate litigation research tools.

**Base Program Description:** The appellate courts ultimately interpret the meaning and scope of the internal revenue laws. In order for judicial decisions to provide correct and uniform interpretations of the tax laws for the benefit of the public, organized, consistent, and persuasive written and oral arguments concerning complex issues must be presented in a timely manner to judges who generally are not experts in the tax law. The Government must make effective presentations if it is to ensure that uniform and logical judicial decisions are obtained throughout the Nation, and that the laws will be interpreted in a manner which ensures that Congressional intent will be carried out both as to the amount and the incidence of taxation. The centralization of these responsibilities is essential to ensuring that the Government takes consistent positions in the various courts which, by statute, share responsibility for the interpretation of the internal revenue laws at the appellate level. The effective administration of the Federal self-assessment tax system depends to a great extent upon the success of this program's efforts to ensure fair, consistent, and vigorous advocacy on behalf of the Government.

This program is responsible for presenting the Government's written and oral arguments in all civil tax cases on appeal to the United States Courts of Appeals and to the various State appellate courts. This program also is responsible for handling appeals in Freedom of Information Act and Privacy Act cases involving the Internal Revenue Service, and in civil tort suits involving officials and employees of that agency, and for handling or supervising the presentation of both written and oral arguments in all criminal tax cases on appeal to the United States Courts of Appeals. While the U.S. Attorneys continue to handle a majority of such criminal appeals under the general supervision of this program's attorneys, a significant number of these criminal tax appeals, usually involving important or precedent-setting issues, are both briefed and argued by the program's attorneys. In addition, this program is responsible for preparing the drafts of all pleadings and briefs to be filed in the Supreme Court in both civil and criminal tax cases. These filings include petitions for certiorari, responses to taxpayer petitions, briefs amicus, and briefs on the merits, all of which are handled in cooperation with the Office of the Solicitor General. Finally, this staff prepares recommendations for the Office of the Solicitor General with respect to: (1) the filing of petitions for certiorari in all tax cases lost by the Government in the courts of appeals; (2) the prosecution of appeals in all tax cases lost by the Government in the District Court, the Claims Court, and State courts; and (3) the prosecution of appeals in tax cases lost by the Government in the United States Tax Court, where such cases are referred to the Department of Justice by the Internal Revenue Service.

Accomplishments and Workload: The accomplishments of the Federal Appellate Activity program are presented in the following table:

	Estimates		
	1983	1984	1985
1. Appellate Caseload:			
a. Pending, Start of Year	1,213	1,199	1,358
b. Received	902	1,096	1,508
c. Closed	916	937	1,400
d. Percent Government Wins	89%	85%	87%
2. Work Products:			
a. Main Briefs	529	636	700
b. Reply Briefs	80	74	90
c. Briefs in Opposition	62	32	65
d. Oral Arguments	289	287	325
e. Memoranda	423	586	600
f. Dispositive Motions	168	92	115

This program's successful record in the appellate courts enhances the Government's ability to determine and collect taxes and produces a direct increase in Federal revenues in the years covered by the decisions. The impact of these decisions, moreover, extends beyond the tax years and the taxpayers actually involved in the specific litigation. Rather, the successes in the appellate courts will have continuing impact on the Government's tax collection efforts and generate even greater revenues in future years by virtue of the tax issues resolved in favor of the Government. These victories also greatly contribute to efforts to promote a fair and equitable tax system. Some specific recent examples of this program's recent successes illustrate this point:

During the past year, in *United States v. Ptasynski* (S. Ct. 1983), the Supreme Court unanimously upheld the constitutionality of the windfall profits, tax, thus ensuring the Government's right to retain more than \$50 billion in gross revenues already collected, and its right to collect, potentially, \$200 billion in future tax revenues. Reversing the widely-reported decision striking down the tax, the Court sustained the Government's position that the Alaskan oil exemption from the tax did not violate the Uniformity Clause of the Constitution. In another unanimous decision, *Commissioner v. Tufts* (S. Ct. 1983), the Supreme Court reversed the Fifth Circuit and held that when a taxpayer sells or disposes of property encumbered by a nonrecourse obligation that had been included in his tax basis for the property the taxpayer must include the full amount of the obligation in the "amount realized" on the sale, even if the obligation exceeds the fair market value of the property. This decision, which will ensure that tax shelter investors will have to account for and pay taxes on the benefits they derive from their shelters, overturned an adverse Fifth Circuit decision that had been viewed with alarm by the Treasury. In *Fegan v. Taxation with Representation of Washington* (S. Ct. 1983), the Supreme Court reversed the D.C. Circuit and held that the prohibition against lobbying activities on the part of tax-exempt organizations did not violate the First Amendment or the equal protection component of the Fifth Amendment. The Court nevertheless upheld the right of tax-exempt veterans' organizations to lobby pursuant to a special statutory provision, reasoning that the special status accorded to veterans was not an impermissible legislative distinction. In *Dickman v. Commissioner* (S. Ct. 1984), the Court held that interest free loans result in taxable gifts of the reasonable value of the use of the money loaned, reasoning that the right to use the money constituted a property interest subject to the gift tax.

The Supreme Court also rendered several decisions that should aid the Government in its tax collection efforts. In *United States v. Rogers* (S. Ct. 1983), the Court upheld the right of the Government to foreclose a tax lien against property in which a nonpayer spouse had claimed a homestead interest under state law. In *Badiracco v. Commissioner* (S. Ct. 1984), the Court held that in cases where an original tax return is fraudulent, the Internal Revenue Service may assess a tax deficiency at any time, notwithstanding the fact that

the taxpayer may later file an amended, nonfraudulent return (which normally would have triggered the general three-year statute of limitations on deficiency assessments). In *United States v. Rylander* (S. Ct. 1983), which involved a civil contempt proceeding growing out of the taxpayer's failure to comply with an I.R.S. summons for books and records, the Court held that the taxpayer could resist the summons only by proving that he was then unable to comply, and that the taxpayer could not meet his burden of proof in this regard simply by asserting the Fifth Amendment privilege against self-incrimination. Finally, in *United States v. Arthur Young & Co.* (S. Ct. 1984), the Court unanimously upheld the Service's right to summons tax accrual workpapers prepared by an accounting firm in connection with an independent audit of a corporation's financial statements. In so holding, the Court rejected the claim that the workpapers in question were exempt from disclosure under an accountant work-product privilege.

Several important cases were decided in the circuit courts. Noteworthy among the tax shelter decisions was *Brannen v. Commissioner* (11th Cir. 1984). In that case, which involved a limited partnership formed for the purchase and exploitation of a motion picture, the Court of Appeals not only disallowed deductions claimed by the partners on the ground that the nonrecourse debt forming the bulk of the purchase price lacked economic substance, but it also denied the partners any deductions attributable to their cash investments in the shelter, on the ground that the partnership was not operated with the intent of earning a profit. Since these issues form the focus of many, if not most, of the tax shelter controversies now pending in court or on examination, the victory here and in a similar case, *Fox v. Commissioner* (2nd Cir. 1984), will undoubtedly stand the Government in good stead in future years. In a decision affecting a large number of taxpayers, the Court of Appeals, in *Green v. Commissioner* (9th Cir. 1983), held that a taxpayer was not entitled to a "home-office" deduction for costs relating to a room in which he kept a telephone that he regularly used to communicate with clients after normal business hours. The court held that a home-office must be used to meet with clients before a deduction was permitted. A home-office deduction also was denied in *Moller v. United States* (Fed. Cir. 1983), involving active investors managing a \$14 million portfolio. The Federal Circuit held that persons engaged in investment activity but who were not traders in securities were not engaged in a "trade or business" and, consequently, were not entitled to a home-office deduction.

The courts also have handed down opinions in a number of cases with significant implications for the Government's efforts to obtain compliance with the revenue laws. In *United States v. Ernst & Whinney* (11th Cir. 1984), for example, the Court of Appeals upheld the Government's right to seek an injunction against an accounting firm from marketing an investment service that was allegedly designed to disguise improper tax credits. The court's broad interpretation of the statutory injunction provision at issue in that case will provide the Government with a potent weapon in dealing with protestors, promoters of bogus tax avoidance schemes, and others whose activities improperly interfere with the administration of the tax laws. Another potent weapon in the Government's tax enforcement arsenal, the power to summons books and records, was given a boost by the decision in *United States v. Hayes* (11th Cir. 1984). In that case, the Court of Appeals held that the promoter of commodity trading tax shelter could not successfully resist an I.R.S. summons for books and records by claiming that the records were located in Switzerland and that his Swiss manager would not release them. In the court's view, the promoter had to do more than merely "request" the records from his Swiss manager. Finally, in *Tucker v. United States* (5th Cir. 1983), and *Parker v. Commissioner* (5th Cir. 1984), cases that may have considerable impact on the tax-protest movement, the Court of Appeals imposed sanctions (in the form of attorney's fees and double costs, respectively) against taxpayers who had continued to litigate frivolous claims. It is hoped that the courts will continue to award such sanctions in appropriate cases, thus reducing the amount of docket-clogging and resource-consuming protest litigation on totally frivolous claims.



	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
Criminal tax prosecution .....	106	104	106	107	106	107	...	...
		\$6,296		\$6,452		\$6,452		...

**Long-Range Goal:** To promote the integrity of the voluntary, self-assessment tax system in the United States by the application of standards of prosecution on a national basis and by the timely, consistent, and successful prosecution of those taxpayers who fraudulently attempt to evade their Federal tax responsibilities.

#### Major Objectives:

- To evaluate cases received from the Internal Revenue Service in order to determine whether prosecution is warranted.
- To evaluate and monitor the initiation and progress of grand jury investigations being conducted by the U.S. Attorneys' offices and to review grand jury findings in order to determine whether prosecution is warranted.
- To accept and handle fully all appropriate requests from the U.S. Attorneys' offices for direct grand jury and trial assistance.
- To handle directly and/or supervise the prosecution of cases involving tax shelter plans, tax protesters, and the "church" issue.
- To continue and expand the program's coordination with the appropriate divisions and sections of the Internal Revenue Service in long and short-range planning and program development of criminal tax investigations.
- To continue this program's Tax Protester Enforcement Unit, which addresses the growing threat to the Federal tax system presented by illegal tax protest groups and to provide active liaison with the major tax units which have been established in several U.S. Attorneys' offices.

**Base Program Description:** Noncompliance with the tax laws is a matter of great importance, not only with respect to the tax revenues lost, but also with respect to the basic question of fairness to taxpayers who voluntarily obey the internal revenue laws. Taxpayer compliance will be improved significantly if criminal investigations and prosecutions are initiated with adequate frequency and appropriate geographical coverage, and, where undertaken, are consistently successful. This program's primary responsibility is the review and case supervision of all criminal tax prosecutions in the United States, in order to ensure a consistent and uniform national prosecution policy in Federal tax matters. The review for prosecutive merit consists of a complete, objective examination of all reports, exhibits, and evidentiary materials furnished by the I.R.S. Program attorneys prepare prosecution memoranda detailing the evidence available in the case and make recommendations as to whether the I.R.S.'s theory should be accepted, rejected, or modified. If a case is approved for prosecution, it is transmitted to the appropriate U.S. Attorneys' offices.

Program attorneys provide a wide variety of important litigative support activities for the cases prosecuted in the field including: (1) serving as a readily accessible information source to U.S. Attorneys by providing telephone assistance regarding evidentiary problems, trial tactics, plea bargaining, and general trial matters; (2) preparing indictments and other pleadings; (3) providing memoranda of law, trial briefs, jury instructions, and other materials; and (4) monitoring the status every 90 days, of cases pending in the U.S.

Attorneys' offices. Finally, U.S. Attorneys often request the assistance of this program in grand jury investigations, trial preparation, and in the actual conduct of criminal trials when the case involves novel or complex issues of law or fact which require specific criminal tax expertise; when the tax case load levels in specific U.S. Attorneys' offices require additional resources; when the case involves a sensitive local issue or individual; or when prosecution is declined in a case by a U.S. Attorney, but the Division considers the case to be meritorious. Grand jury and trial assignments are undertaken by the staff of this program without prior transmittal to the U.S. Attorneys' offices only in cases dealing with the "church" issue, the tax protester movement, and tax shelters, which generally are of great complexity and have ramifications beyond the borders of a Federal judicial district or state.

Accomplishments and Workload: The accomplishments of the Criminal Tax Prosecution program are presented in the following table:

	1983	1984	Estimates	
			1985	1986
1. Number of Defendants in Cases				
a. Reviewed				
a. Pending for Review *	892	679	697	697
b. Received for Review	1,885	2,169	2,300	2,400
c. Transmitted to U.S. Attorneys or Declined	2,098	2,151	2,300	2,400
2. Trials Assigned to Program Attorneys				
a. Total Trial Assignments Pending *	59	63	54	54
b. Total Trials Assigned	80	65	110	120
c. Trial Assignments Completed	76	74	110	120
3. Grand Jury Activities by Program Attorneys				
a. Authorizations Approved and Forwarded to U.S. Attorneys	360	375	400	400
b. Investigation Pending	16	25	30	30
c. Investigation Initiated	14	10	25	25
d. Presentations for Indictment	55	39	60	60
4. Memoranda Completed	1,349	1,934	2,100	2,400

\* adjustments have been made to reflect on-going automation of docket information.

Fear of criminal prosecution is a vital adjunct to the effectiveness of the voluntary, self-assessment system of taxation. The successful deterrence of violations of the criminal provisions of the tax laws depends upon the implementation of a balanced program of enforcement based on the geographical and occupational coverage of the population and involving various types of alleged violations in all income brackets. Such broad enforcement is enhanced by the identification and prosecution of: (1) individuals who derive substantial income from certain illegal activities and violate the tax laws; (2) specifically designated areas of non-compliance; and (3) special "high-impact" cases involving major issues, personalities, or significant dollar amounts.

This program has been successful in all of the aforementioned areas. During the past year, criminal tax convictions have taken place in every state and across the full-range of legitimate (and illegitimate) occupational groupings. For example, the diversity of the geographical and occupational composition of this program's cases is evidenced by the following sampling of convicted defendants: a

gambler from Alaska; a cocktail lounge operator from Hawaii; a seafood restaurateur from North Carolina; a logger from Georgia and timber brokers from North Carolina; medical doctors from Florida and Texas and a pharmacist from Virginia; a gas station operator from South Carolina and used autoparts dealers from California and Georgia; a construction executive and a carpet sales official from Oregon; a major milk distributor in New York; beauty salon proprietors in North Carolina; scrap metal dealers in Pennsylvania; a prison inmate in Georgia; a top-level I.B.M. engineer from New York; a former F.B.I. agent from Virginia; narcotics and cocaine traffickers in Illinois, Florida, and a number of other States; and bank executives from Florida and Oklahoma. Many of the program's prosecutions involve fraudulent tax schemes which present complex and technical tax issues involving tax shelters, church exemptions, Subpart F income, corporate diversions, short sales, and inventories. The resources necessary to successfully prosecute such complex cases are significant, and two attorneys generally are involved because of the large number of witnesses and the voluminous documentary evidence required.

The prosecution of illegal tax protesters remains a priority concern of the program. To facilitate expeditious and effective nationwide prosecutions of tax protesters, the program has developed a "Tax Protest Library" within the Tax Division to serve as a clearinghouse and repository for tax protest pleading and materials. The program currently is developing a tax protest file for the Department's "JURIS" system to maximize the efficient dissemination of such materials to U.S. Attorneys' offices. In addition, the program's litigation successes against tax protest leaders continue unabated as several major convictions and increasingly severe sentences were obtained by the program's personnel in the past year. On November 18, 1983, for example, in United States v. Paul E. Bell (E.D. Ca.), a jury in Fresno, California, convicted Paul E. Bell, national leader of the Balance tax protest group, of 13 counts of income tax mail fraud violations relating to a nationwide tax protest scheme which he operated in 1980 and 1981 and from which he derived over \$300,000 in income from the sale of his tax protest packages. On January 9, 1984, Bell was sentenced to five years' imprisonment and five years' probation and assessed \$16,000 in costs of prosecution. In another major protester case, in December, 1983, following an extensive grand jury investigation conducted by program personnel, a grand jury in Richmond, Virginia, returned a 40-count indictment in United States v. Thomas K. Williams, et. al. (E.D. Va.), against the principals in Liberty Ministries International, a nationwide mail-order ministry scheme. The defendants were charged with conspiracy to defraud the United States and income tax and mail fraud violations in connection with the marketing and selling of Liberty Ministry packages at \$3,000 per package to over 1,100 people in at least 32 States. All the defendants, except Williams and his wife, pled guilty to the various charges. On October 19, 1984, following a four-week trial and two days of deliberations, a jury in Richmond, Virginia, found the three remaining co-defendants in the tax protest scheme guilty on virtually all counts. The jury convicted Thomas K. Williams, founder and leader of L.M.I., and his wife Linda S. Williams on all 31 counts, including a Klein conspiracy to defraud the United States in violation of 18 U.S.C. Section 371, numerous substantive income tax criminal violations involving theirs and others income taxes, and several mail fraud counts. The jury also convicted Robert M. Jacobs, L.M.I.'s major recruiter in Virginia, on all but three counts, including the Klein conspiracy to defraud the United States, numerous substantive criminal tax violations, and mail fraud. The trial convictions, which continue the Government's attack of successes against the "home church" tax protest scam, culminate a three and one-half year investigation and prosecution of individuals associated with L.M.I. The Government's success against L.M.I.'s promoters was total, as all individuals charged by the Government in the case were convicted either by way of guilty plea or trial conviction.

In United States v. Charles D. Ray, Sharon B. Ray and Chris D. Parker (S.D. Ga.), on October 10, 1984, in Augusta, Georgia, following an eight-day trial and five hours of deliberations, a jury convicted tax protesters Charles D. Ray, Sharon B. Ray and Chris D. Parker of willfully conspiring to defraud the United States (Klein conspiracy) in violation of 18 U.S.C. Section 371 and numerous counts of aiding and assisting in the filing of false income tax returns and Forms W-4 in violation of 26 U.S.C. Section 7206(2). The defendants were leaders of the Central Savannah River Area Patriots, a leading tax protest cabal in Georgia. The defendants advised their tax protest followers to claim fictitious business losses, to not report wages as income, and to file false exempt Forms W-4 in order to remove themselves from income tax withholding. Moreover, the defendants advised their followers to harass Internal Revenue Service agents. In this major criminal tax protest prosecution, the convictions of the Rays and Parker supplement the August, 1984 guilty plea by

Hark W. Bazemore, another co-defendant, for conspiring to defraud the United States (Klein conspiracy) and making a materially false income tax return. Finally, in *United States v. Mark S. Kelley and Margaret E. Mintz* (S.D. N.C.), on August 9, 1984, in New Bern, North Carolina, the honorable Earl Britt sentenced convicted tax protesters Marc S. Kelley and Margaret E. Mintz, following their June 19, 1984, convictions, for conspiring to defraud the United States in violation of 18 U.S.C. 371 and numerous counts of aiding and assisting in the filing of false Forms W-4 in violation of 26 U.S.C. 7205. Kelley, the leading illegal tax protester in North Carolina and the founder and executive director of the Constitutional Tax Association, received a five-year prison sentence. Ms. Mintz, Kelley's assistant, received a five-year probationary sentence and was ordered to perform six hours of community services per week for five years. Mintz also was fined \$6,000.

The degree of voluntary compliance also is influenced by the identification of specific areas of noncompliance and certain "high-impact" cases. For example, illegal tax shelters remain a continuing prosecutive priority of the program. On January 27, 1984, in *United States v. James G. Mallas, et. al.* (M.D. N.C.), a jury in Charlotte, North Carolina, convicted tax shelter promoters James G. Mallas and Robert V. Jones on 14 felony tax counts and an interstate transportation offense under 18 U.S.C. 2314 in connection with a fraudulent coal tax shelter which they promoted during 1977 and 1978. Mallas and Jones were convicted of a conspiracy to defraud the United States, two counts of willfully filing false 1977 and 1978 individual income tax returns, and ten counts of aiding in the filing of false individual investor income tax returns. The Government established that Mallas and Jones fraudulently sold 120 investors 350 percent tax writeoffs ostensibly predicated upon advance minimum royalty payments from leases on Kentucky coal mines. The defendants misrepresented to the investors the extent of economically recoverable coal reserves and concealed their use of fictitious loans generated by a "check sweep" circular financing scheme. Such misrepresentations and concealment resulted in falsely claimed investor deductions totaling \$8,746,000 and evaded income taxes in excess of \$4,055,000. On March 19, 1984, Mallas and Jones were sentenced to serve twelve years in prison and fined \$75,000 and \$45,000 respectively. In *United States v. Michael Seft, et. al.* (S.D. N.Y.), on July 16, 1984, in the massive Sentinel Government Securities tax shelter prosecution in Manhattan involving \$130,000,000 in fraudulent tax deductions, Michael Seft, Sentinel's founder and general partner, was sentenced to serve 15 years in prison and fined \$80,000. Sentinel's former head tax trader, Walter Orchard, was sentenced to serve four years in prison and fined \$15,000. The sentences followed defendants' June 8, 1984, conviction on charges of conspiring to defraud the United States (Klein conspiracy) in violation of 18 U.S.C. Section 371 and various substantive income tax violations including tax evasion and aiding in the filing of false tax returns. The Seft sentences are among the most substantial prison terms yet imposed in a criminal tax shelter case. Hopefully, they portend a growing sentencing trend in this vital area of criminal tax enforcement.

The program's successful prosecutions in priority project areas outlined above are complemented by its similarly consistent prosecutive success in sensitive cases involving prominent personalities. For example, in *United States v. David H. Terrell* (M.D. Tx.), on February 3, 1984, a jury in San Antonio, Texas, convicted evangelical minister and religious radio personality David H. Terrell of willfully attempting to evade his 1976 through 1979 individual income taxes. The Government established by the net worth method of proof that Rev. Terrell, a prominent revivalist minister, willfully failed to report on his income tax returns \$200,000 in "love offerings" received from individuals attending his revival sessions and attempted to evade \$110,000 in income taxes. The Government established that Rev. Terrell, a self-styled "prophet of the poor," advised his followers to sell all they had and give to the church. By the end of 1979, such "largesse" resulted in Rev. Terrell's accumulation of a personal net worth of \$1,250,000, including a \$160,000 mansion for which he paid cash, a \$30,000 guitar-shaped swimming pool, and a fleet of 25 Mercedes, Lincoln, and other similar automobiles. On April 13, 1984, Terrell was sentenced to serve five years in prison and was fined \$20,000.

	1985 Appropriation			1986 Base			1986 Estimates			Increase/Decrease	
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY
Civil tax litigation activity ...	331	303	\$16,564	331	326	\$17,598	331	326	\$17,598	...	...

Long-Range Goal: To ensure the proper and uniform interpretation of the Internal Revenue laws, the maximization of Federal tax revenues, and the fair and efficient resolution of disputed tax matters through litigation to defend against taxpayers' claims, to recover outstanding tax liabilities, and to enforce Federal civil tax programs.

Major Objectives:

To defend effectively the amounts at issue in refund suits, so as to protect both the short-term and long-term tax revenue flow to the United States Treasury.

To defend successfully all injunction, declaratory relief, suppression, mandamus, and jeopardy assessment suits so as to uphold the legality of the Government actions involved and defend vigorously all tort actions so as to discourage "nuisance" suits and to prevent the harassment of Internal Revenue Service personnel.

To litigate swiftly and effectively all disputes emanating from bankruptcy proceedings, by providing legal support to court judgments, establishing Government priority in relation to other creditors, and collecting all non-dischargeable debts.

To maximize the collection of unpaid taxes through the successful litigation in all judicial proceedings for the recovery of unpaid tax liabilities and through the vigorous collection of all tax judgments.

To resolve equitably all legal conflicts which arise between a taxpayer's right to information concerning the policies and practices which the I.R.S. follows in enforcing the tax laws, the ability of the Service to conduct tax investigations effectively, the limitations on Governmental disclosure of tax return information, and the third-party confidentiality requirements imposed by the Freedom of Information Act and the Privacy Act.

To enforce vigorously all administrative summonses issued by the I.R.S., so that on-going tax investigations will not be impeded.

To develop a uniform and consistent national policy regarding the complex issues presented in cases involving Federal immunity from state and local taxation and in cases under Code Section 7428, which governs the qualification for tax exempt status.

To handle effectively the major new Division responsibilities resulting from the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).

Base Program Description: The Civil Tax Litigation Activity program is responsible for ensuring the proper and uniform interpretation of the Internal Revenue laws, the maximization of Federal tax revenues, and the fair and equitable resolution of disputed tax matters through litigation to defend against taxpayers' claims, to recover outstanding tax liabilities, and to enforce Federal civil tax programs.

Because the Federal tax system, in the first instance, relies solely upon the taxpayer's self-assessment of his or her tax obligations, frequent controversies arise in which an I.R.S. audit reveals a tax liability different from that previously determined by the taxpayer. A taxpayer facing an asserted additional income, estate, or gift tax liability has the option of either withholding payment and challenging the liability in the Tax Court or paying the amount in dispute and, after exhausting his or her administrative remedies, filing a suit for refund of the amount at issue in a United States District Court. Similarly, a taxpayer who, independently of a tax audit, believes he or she has overpaid a tax obligation for a period for which a tax return has been filed may, after a period for administrative review, file a suit for refund in a United States District Court or the Claims Court. The trial of all refund suits brought against the United States in the District Courts and the Claims Court is the responsibility of this program, while only the

conduct of cases in the U.S. Tax Court remains the responsibility of attorneys in the offices of the Chief Counsel of the Internal Revenue Service. In addition, this program also defends the Government's interest in a wide variety of other taxpayer-initiated claims, including suits against the United States or I.R.S. employees for torts allegedly committed in connection with the collection of taxes.

When the efforts of the I.R.S. to effect prompt collection of unpaid taxes through administrative action have failed, this program is called upon to commence or participate in judicial proceedings to enforce collection of the unpaid taxes. When confronted with purely factual disputes in recovery litigation, this program encourages fair, equitable, and reasonable compromises based solely on the relative merits of each particular case. In those instances where the litigation involves the interpretation of specific tax laws, however, the objective is to obtain judicial decisions which will provide reasonable guidelines for carrying out uniform tax collection activities on a nationwide basis. While a primary workload component of this program is bankruptcy litigation, attorneys also litigate to obtain tax recoveries in situations in which a taxpayer has sought to avoid, defeat, or ignore payment of tax liabilities or in which a taxpayer's creditors have sequestered his/her assets or have subjected the taxpayer to competing claims. In addition, this program also has oversight responsibility for approximately 11,000 actions brought each year against the United States pursuant to certain provisions of 28 U.S.C., Section 2410.

With respect to litigation to enforce Federal civil tax programs, this program handles a variety of cases integral to I.R.S. tax audit and investigation policies and programs, freedom of information and privacy suits, summons enforcement, declaratory judgment actions dealing with qualification of an organization claiming tax-exempt status, and state and local tax immunity suits. The efforts of each of these programs are essential to the efficient and effective functioning of the Federal tax system. Any reduction or delay in these activities will result in significant and immediate tax revenue losses, and could create even more serious long-range revenue problems.

Finally, the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) has resulted in a significant increase in this program's workload, not only with respect to traditional workload, but also with respect to a wide variety of new litigation responsibilities. TEFRA was a reflection of the concern with massive taxpayer noncompliance in the Federal tax system. The I.R.S. estimates that approximately \$100 billion in taxes from the legal sector are unreported. A study by the U.S. Bureau of the Census places the legal sector figure at \$220 billion or 7.5 percent of the GNP, primarily resulting from legal sector unreported income and overstated deductions. Unreported taxes from illegal income sources are more difficult to estimate, but are thought to be in the range of \$6 billion to as much as \$40 billion. The enactment of TEFRA recognized the inadequacies of conventional Government enforcement tools (e.g., substantive legislation aimed at various tax techniques, increased audit resources, etc.), and the need to provide more effective procedural tools and penalty provisions to enforce taxpayer compliance.

Since the enactment of TEFRA in September 1982, the primary focus of the Internal Revenue Service has been the provisions related to abusive tax shelters. The new strategy in Federal tax administration employed by TEFRA is based on: (1) permitting the Federal Government to attack abusive tax shelters directly at their source by use of injunctive relief and penalties against the promoters of the tax shelters (26 U.S.C. Sections 7408 and 6700), and (2) permitting the imposition of substantial penalties on investors who invest in abusive tax shelters (26 U.S.C. Section 6661). Under the injunction provision, 26 U.S.C. Section 7408, the I.R.S. may now request the Department of Justice to institute proceedings directly against tax shelter promoters in much the same manner that the Securities and Exchange Commission acts to halt violations of the securities laws. The related penalty statute, 26 U.S.C. Section 6700, also permits the I.R.S. to assess substantial monetary penalties against abusive tax shelter promoters who may elect to contest the penalty assessment in Federal district court.

These new provisions allocate primary responsibility for abusive tax shelter enforcement to the Tax Division, since the injunction and penalty litigation under TEFRA are handled by the Division in the Federal district courts. Litigation of the abusive tax shelter injunction and penalty statute is more resource intensive than many other types of cases handled by the Tax Division. First, in both the injunction and the penalty litigation, the Government bears the burden of proof. In contrast, in the Tax Court and with tax refund

litigation in the District Courts, the taxpayer bears the burden of proof. Thus a TEFRA injunction or penalty suit generally requires more investigation and trial preparation by Division attorneys, similar to that of a criminal trial. Secondly, in the case of the injunction statute, because the purpose of the statute is to obtain an injunction to stop a tax shelter promoter before investors buy in and the harm is done, an injunction action has to be developed on an expedited/high priority basis. Under TEFRA, effective implementation of the tax shelter injunction and penalty statutes will depend on the Tax Division assigning adequate attorney resources to commence the litigation promptly in the Federal District Courts where only the Department of Justice may represent the Government.

Accomplishments and Workload: The accomplishments of the Civil Tax Litigation Activity program are presented in the following table:

	1983	1984	1985	1986
			Estimates	
1. Defense of Monetary Claims				
a. Tax Refund Cases				
Pending *	2,370	2,377	2,710	2,910
Received	1,159	1,285	1,300	1,400
Closed	1,152	952	1,100	1,400
b. Other Defense				
Pending *	962	1,231	1,482	1,502
Received	1,237	1,312	1,200	1,300
Closed	988	1,061	1,180	1,300
2. Recovery of Money				
a. Bankruptcy Cases				
Pending *	2,565	3,507	3,544	3,544
Received	3,208	3,634	3,750	4,000
Closed	2,266	3,597	3,750	4,000
b. Other Recovery				
Pending *	1,418	1,572	1,758	1,758
Received	920	1,089	1,250	1,500
Closed	766	903	1,250	1,500
c. Section 2410 Lien	10,545	11,396	12,000	12,000
3. Federal Civil Programs				
a. FOIA/PA				
Pending *	111	85	208	208
Received	58	157	190	190
Closed	84	34	190	190
b. Summons Enforcement				
Pending *	3,229	2,885	1,309	1,309
Received	4,494	3,054	2,600	2,600
Closed	4,838	4,630	2,600	2,600
c. Other Enforcement Suits				
Pending *	244	230	205	205
Received	346	300	300	300
Closed	360	351	300	300

## 4. TEFRA-Related Cases

Pending *	579	1,080	1,530
Received	700	1,450	1,700
Closed	121	1,000	1,700

\* adjustments have been made to reflect on-going automation of docket information.

Several of this program's more significant cases are discussed below:

In *Stearns-Roger Corporation v. United States* (D. Colo.), a world-wide designer and manufacturer of mining, petroleum, and power generating plants sought to recover taxes alleging that the I.R.S. improperly denied deductions under Section 162 for "insurance premiums" paid to its wholly owned insurance subsidiary. The Court held that for Federal tax purposes the agreement between Stearns-Roger and its insurance subsidiary was not an insurance contract and that the premium payments were not deductible as insurance business expenses. The Court assessed costs against the plaintiff. In *Margolis v. United States* (N.D. Calif.), the District Court granted the Government's motion for summary judgment denying a deduction for interest expense under Section 162 of the Code claimed by Margolis on an amended return for 1976. Margolis had originally claimed the alleged interest payments under Section 163(d) of the Code. Claiming the deduction under Section 162 on Schedule C created a tax overpayment and payable refund of \$21,000 to Margolis. To create the deduction, Margolis borrowed funds from an off-shore bank he controlled and loaned the funds to his law firm's clients, relatives, and friends. On deposition Margolis testified that the loans were made in this fashion "to accommodate clients" of his law practice, which operates as a professional corporation. The Court found, as a matter of law, that Margolis did not have the requisite "profit motive" in making the loans giving rise to the interest deductions. Therefore, Margolis was not entitled to deduct the claimed interest expenses as "ordinary and necessary" business expenses incurred in the business of "short-term lending." Margolis is a well-known promoter of abusive tax shelters and other avoidance schemes.

In *rei John Marshall Law School, Debtor* (U.S. Bankruptcy Court, N.D. Ga.), a Chapter 11 proceeding filed in November 1982, schedules filed with the petition indicated that the debtor was solvent and that its only creditor (of any significance) was the United States. Debtor's tax liability (approximately \$400,000) resulted from the retroactive revocation of the debtor's tax-exempt status which was upheld in a decision by the United States Court of Claims in July of 1981. In an order filed July 8, 1983, Bankruptcy Judge Hugh Robinson granted a motion to dismiss, finding that the debtor's failure to propose a plan, intent to find a forum for its tax question, and lack of good faith warranted dismissal. On July 11, 1983, the Internal Revenue Service seized approximately \$450,000 worth of assets in payment of debtor's outstanding liability. In a corporate bankruptcy reorganization, *Braniff Airways, Inc.*, Debtor (N.D. Texas), the debtor had withheld \$1.8 million in airline ticket excise taxes from passengers prior to filing its petition. This program filed an adversary proceeding to prevent \$1.8 million in "trust fund" taxes from being used in the debtor's operations. The program succeeded in securing the payment of \$1.8 million to the Internal Revenue Service. In the Matter of *Burgess Wholesale Manufacturing Opticians, Inc.*, (N.D. Ill.), a bankruptcy case in which the debtor's proposed plan of reorganization failed to provide for interest after the effective date of the plan on the payments of priority tax claims of the United States, this program objected to confirmation of the plan preserving the issue for appellate review by the U.S. Court of Appeals for the Seventh Circuit. This court held that the United States is entitled to such interest. This case is illustrative of numerous cases which involve ensuring that the claims of the United States are properly treated in bankruptcy and securing interpretations of the Bankruptcy Code.

This unit has placed increased emphasis on the use of jeopardy and termination assessments. For example, in *Felkel v. United States*, (S.C. 1983), a large assessment (\$4.3 million) was sustained even though the taxpayer was a respected businessman who was not involved with drugs or other illegal activity, was not planning to leave the country, and did own substantial real property. This important victory helps counter a bad decision in a case several years ago where counsel for a taxpayer successfully argued that jeopardy assessments were intended for use in drug cases and were inappropriate in the case of a legitimate businessman. Finally, in *United*



*States v. Terpil* (E.D. Va.), an action was brought to foreclose Federal tax liens resulting from jeopardy assessments of almost \$5,000,000 made against Francis and Marilyn Terpil. Terpil, a former CIA agent, is currently a fugitive from justice, having fled the country after being indicted in 1980 for various violations involving the illegal exportation of arms and munitions to the government of Libya. On July 15, 1983, Judge Richard L. Williams in Alexandria ordered that the Terpils' former residence on Chain Bridge Road in McLean, Virginia, be sold. After payment of county property taxes, it is expected that approximately \$455,000 will be received and applied to the assessments.

With respect to this program's summons enforcement activity, in *United States, et. al. v. Toyota Motor Corp., et. al.* (C.D. Calif.), the Division instituted an action against Toyota Motor Corporation and its U.S. sales subsidiary (Toyota U.S.A.) to secure information concerning the sale of Toyotas in the United States and Japan for the years 1975 through 1978. This information was needed by the I.R.S. in order to determine whether Toyota U.S.A. properly computed its tax liability for those years, but the Service had been unable to obtain the information by use of its administrative summons power. The Court ordered the respondents to supply a portion of the material and information sought by the Service. The Court ordered compliance with that portion of the summons calling for the selling prices to Japanese dealers for each passenger model sold during the years involved; it is this information which is essential to the Service's audit of Toyota U.S.A. The Court considered, and rejected, the position of the government of Japan that compelling production of documents located in Japan would violate international law. The Court analyzed in detail international law principles, and found that the requested material was relevant, important, unavailable via alternative sources, and necessary for a fair and accurate determination of Toyota U.S.A.'s tax liability. The Internal Revenue Service's increased emphasis on detection of abusive tax shelters has resulted in an increase in the use of John Doe summonses designed to discover the identities of investors in such shelters. In *re John Doe, Ali* *Persons Who Purchased Food Source Intermodal Containers, et. al.* (N.D. Calif.), on May 19, 1983, United States District Judge Samuel Oñif in San Francisco, granted leave to serve a John Doe summons for the names and identifying data of investors in an abusive tax shelter using inflated valuations (up to 700 percent) of a refrigerated food transportation container. Deficiencies in excess of \$35 million have already been proposed against the known investors. In a surprising response, on June 3, 1983, the corporation agreed to comply with the summons and is in the process of supplying the I.R.S. with the required information. The action seeking enforcement of the summons has been dismissed without prejudice and subject to reinstatement should the respondent fail to comply completely. In *Butterfield v. United States* (N.D. Pa.), one of the first decisions to be rendered under the revised third-party recordkeeper summons procedures enacted in TEFRA, the District Court enforced in substantial part a summons directed to a central Pennsylvania bank. The Court found that the summons had been issued in good faith and for a proper criminal purpose as permitted under the summons statutes after TEFRA. In addition, the Court also found that it was not required to hold a hearing on the matter and that the taxpayer was not entitled to discovery mandated by the Third Circuit's pre-TEFRA case law.

With respect to this program's tax shelter litigation, each case involves millions in revenue that will be lost if the promoter is not restrained. For example, in *United States v. Butteroff* (N.D. Texas) on April 13, 1983, a United States District Court in Dallas, Texas, entered an injunction against Gordon S. Butteroff enjoining him from further promotion and sale of family trust tax shelters. The Court found that Butteroff knew or had reason to know that statements he made concerning the tax benefits to be gained from his trust program were materially false. In addition to condemning the exploitation of individual taxpayers by Butteroff, the Court said: "The cost to individual taxpayers is matched on a much larger scale by the financial drain on the United States Treasury caused by lost revenue and depleted enforcement resources." This was the first action instituted by the Government under new Section 7408 of the Internal Revenue Code. On October 9, 1984, Butteroff was convicted of five counts of criminal contempt in the first criminal contempt prosecution initiated by the Department for violation of an injunction obtained under the recent abusive tax shelter legislation. The Government established at the trial that despite the Court's order Butteroff (1) continued to attempt to sell the family trust as a tax shelter; (2) caused Federal tax forms and deeds to be prepared for pre-injunction clients; (3) solicited and counseled tax return preparers to prepare Federal tax returns for pre-injunction trust purchasers so as to reduce or eliminate the Federal tax liability of such customers; and (4) disseminated material that indicated that family trust schemes reduced or eliminated Federal taxes. All such activity was in violation of the Court's order.

This initial success has been continued. For example, in *United States v. James M. Clark* (filed May 10, 1984, D. Utah), the Department seeks to enjoin the sale of time-share interests in a hotel in Barbados. Under the plan, investors pay \$9,000 for a vacation privilege, and improperly deduct \$40,000 purportedly accrued "interest." If the total 30,000 units offered are sold, the potential tax loss to the Treasury would be in the range of \$3 billion. One of the largest cases awaiting trial is *David A. Dixon* (filed February 27, 1984, N.D. Cal.). Dixon is the promoter of a shelter called Foodsource, based upon the sale of grossly overvalued refrigerated containers, and involving more than 6,000 investors and \$156 million. The cases in which investors have already been obtained also involve large dollar amounts. For example, *United States v. Packaging Industries Group, Inc.* (D. Mass.), involved 750 investors and tax losses totalling \$15 million; *Mid-American Consultancy, Inc.* (E.D. Mo.), involved 54 investors and \$11 million in tax losses; *Robert Krupp* (C.D. Cal.), involved 105 investors and \$3.15 million in potential tax losses.

The new penalty and injunctive provisions of TEFRA also are being instituted to curb the promotion and sale of a variety of protestor schemes to evade or avoid taxes. On April 16, 1984, the Tax Division obtained a permanent injunction in Los Angeles against one of the country's largest tax protestor organizations, Your Heritage Protection Association (YHPA). This injunction suit is the first brought under Section 7408 against a tax protest organization. YHPA's tax protest plan is based on the false proposition of law that wages and other income paid in the form of Federal Reserve Notes are not taxable income. As a result of YHPA's activities, more than 6,000 YHPA members failed to report over \$66 million in taxes and penalties due the Government. An injunction also was obtained in *United States v. David White* (D. Minn.). White is affiliated with the Minnesota Society for Educated Citizens, a branch of the Patriots protest organization. This program has been successful in other cases involving the Patriots including *Danila Kavan* (E.D. Wis.), *Charles Shugman* (E.D. Va.) and *Gerald Savoie* (N.D. Ia.). In *John A. Oaks* (N.D. Mo.), a tax protestor who publishes a nationwide tax protest newsletter called "The Justices Journal," on October 29, 1984, Oaks signed the first consent agreement obtained by the Government against a tax protestor pursuant to a Section 7408 action. Oaks was extensively involved in preparing "zero" tax returns and amended Form 1040 tax returns whereby taxpayers claim a return of all income withheld from wages.

The Tax Division has experienced equal success with cases arising from other provisions of TEFRA. For example, Section 6867, added to the Code by TEFRA, gave the Internal Revenue Service a new mechanism for assessing and collecting tax in circumstances involving unclaimed cash in excess of \$10,000. This new cash jeopardy provision has been successfully litigated in the district courts. The decision in *Joul David Robrish v. United States* (Mass. Oct. 21, 1983), represents significant legal precedent on the important issue of who has standing to contest the Service's actions in cash jeopardy cases. The Court in Robrish adopted the position that the possessor of the cash (who is treated as the owner for purposes of notice of the assessment) cannot maintain an action for judicial review of the assessment under Section 7429 of the Code. In an earlier decision, *Melut and Liguorolo v. United States* (E.D. Fla.), the Court had not specifically ruled on the issue of standing, but nevertheless held that the assessment was reasonable under the circumstances.

A final area of increased litigation has been the defense of frivolous return penalties. In *Kelly L. Bearden v. United States* (Utah), the Court granted the Government's motion for summary judgment. In so doing, the Court expressly rejected the following six arguments: (1) that TEFRA is unconstitutional since it originated in the Senate in contravention of Article I, Section 7, Clause 1 of the Constitution; (2) that Sections 6702 and 6703 deprive the taxpayer of property without due process; (3) that these Sections violate the taxpayer's First Amendment right to petition for redress of grievances; (4) that Section 6702 illegally penalizes the taxpayer for exercising his Fifth Amendment right against self-incrimination; (5) that Section 6702 is cruel and unusual punishment and is a bill of attainder; and (6) that the taxpayer's "Fifth Amendment" return was a valid exercise of his right against self-incrimination. In *Abner P. Neill, et ux. v. Iwcoas Expat* (E.D. La.), plaintiffs brought this action challenging the validity of a frivolous return penalty assessed against them. On their return, plaintiffs provided no information except their name and address and a statement claiming that they were not supplying information based on the Fifth Amendment. Plaintiffs alleged TEFRA to be unconstitutional, alleged that they were denied due process, and alleged that their First, Fourth and Fifth, and Seventh Amendment rights were violated by the assessment. The Court granted the Government's motion to dismiss. Finally, in *Jeffrey C. Tibbets v. Secretary of Treasury* (N.D. NC.), the Court granted the Government's Motion to Dismiss because the taxpayer's return was frivolous as a matter of law. This case involved a protest

return in which the taxpayer attached a Schedule C, showing that he, himself, was a business which had only a loss in the amount of few hundred dollars less than his gross wages paid by two different corporations. The Court held that as a matter of law the idea that setting up a business which sells one's services in exchange for one's wages is frivolous and accordingly the plaintiff's tax return "contained information that on its face indicated that the self assessment was substantially incorrect." Most importantly, however, the Court, based on these facts, awarded the Government its costs, including attorney's fees, Department of Justice overhead expenses, and travel expenses against the plaintiff (\$2,452.76). The taxpayer also raised constitutional arguments, including the typical assertion that TFRA did not originate in the House of Representatives, as well as the fact that a Revenue Agent could not assess a penalty without violating the Separation of Powers Doctrine and the Fifth and Fourteenth Amendments. The Court held all these arguments to be groundless.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	MY	Amount	Pos.	MY	Amount	Pos.	MY	Amount	Pos.	MY	Amount
Organized crime drug enforcement .....	9	7	\$598	9	9	\$689	9	9	\$689	...	...	...

Long-Range Goal: To investigate and prosecute major narcotics traffickers through multi-agency participation in the Organized Crime Drug Enforcement Task Forces.

#### Major Objectives:

- To develop active liaison between the Tax Division and the 13 Regional Drug Task Forces.
- To provide expedited and on-site evaluation, review, and authorization of criminal tax cases generated by the Task Forces.
- To utilize the expertise of this program's attorneys to provide investigative consultation and support with respect to specialized criminal tax procedures.
- To handle grand jury and trial activities upon the request of the Task Forces.

Base Program Description: The profits generated by the illegal activities of individuals involved in drug trafficking are enormous (estimates range as high as \$79 billion per year.) The Internal Revenue Service is concerned that such profits are not being reported on income tax returns and is taking steps to ensure that proper amounts of revenue derived from such illicit activities are collected. One of these steps involves prosecuting upper-echelon traffickers who commit criminal violations of the Internal Revenue Code and related statutes in their attempts to conceal the true amounts of their income. In conjunction with this effort, on October 14, 1982, the President announced the creation of twelve regional Organized Crime Drug Enforcement Task Forces. These Task Forces, modeled after the Vice President's South Florida interdiction effort, are part of "...a national strategy to expose, prosecute and ultimately cripple organized crime in America."

The Criminal Section of the Tax Division has acquired substantial experience and expertise in the area of tax narcotics enforcement. In early 1981, this Section took an active and vigorous role in this area with the formation of the Tax Enforcement Narcotics Unit, to complement U.S. Attorneys offices whose resources precluded their handling of lengthy tax investigations. The Unit primarily confined its quite successful investigative and prosecutive effort to the Service's Southeast Region, while also assigning an attorney to the

Chicago Financial Crime Task Force. During 1985, this program has assigned several attorneys to act as liaison officials with the Regional Task Forces. A program attorney monitors the tax docket of a Regional Task Force and assists in investigations and prosecutions as requested by the Task Force in order to permit the expeditious and efficient review of cases involving tax offenses. The program also is available to provide consultative assistance to the various Task Forces in the financial investigation and tax area and provide legal assistance in tax cases on appeal which involve technical and complex issues. Finally, program attorneys provide training to the Task Forces in the area of financial investigation and criminal tax prosecution.

Accomplishments and Workload. The accomplishments of the Organized Crime Drug Enforcement program are presented in the following table:

	1983	1984	1985	1986
Attorneys Assigned to Regional Drug Task Forces	...	...	9	9
a. Number of Defendants in Cases Received	34	239	245	250
b. Prosecutions Authorized	12	175	230	250
c. Grand Jury Receipts	56	105	115	130

\* Until a sufficient number of attorneys program are hired for this program, the Division's Criminal Section has been providing resources to the Task Force effort, within the constraints of its other criminal tax activities.

With respect to specific cases arising out of Task Force investigations during the past year, in *United States v. Fred B. Black, Jr., et al.* (D. D.C.), a Mid-Atlantic Drug Task Force investigation culminated in the indictment in November, 1983, of, *inter alia*, notorious Washington, D.C. lobbyist-financier Fred B. Black, Jr., for income tax evasion for 1978 through 1981, and an array of non-tax offenses including narcotics, R.I.C.O., currency, and bank fraud violations. In another case, *United States v. National Republic Bank of Chicago* (N.D. Ill.), on August 30, 1983, Judge John Grady sentenced the National Republic Bank of Chicago to a \$15,000 fine and five years' probation following its August 12, 1983, plea of guilty to two counts of failing to file currency transaction reports (C.T.R.s) with the Internal Revenue Service. In a case allegedly involving the use of the Bank to launder narcotics trafficking receipts between 1976 and 1980, the Bank was indicted, together with its former executive Vice-president Kenneth Straub, in a 36-count indictment charging conspiracy to defraud the United States, concealment of material facts from the Service by schemes and devices, and 34 counts of failure to file C.T.R.s with the Service. The bank pleaded guilty to counts involving its failure to file C.T.R.s in two instances with respect to Edward Fields, the kingpin of a major cocaine distribution ring, for transactions totalling \$165,000. At sentencing, the Government asserted that in excess of \$2.5 million had been laundered through the bank since 1976. This case was particularly important to the program as it served as a prototype for liaison activity with its Task Force counterparts.

In *United States v. Vernon Cooper* (D. Md.), on February 29, 1984, following a four and one-half week trial and two days of deliberations, a jury in Baltimore, Maryland, convicted Vernon Cooper, the "Godfather of D.C." and the mastermind of a massive heroin distribution ring in the Maryland - Washington, D.C. area, on income tax evasion charges for 1979 and 1980. The Government established that Cooper failed to report at least \$155,000 in taxable income and attempted to evade at least \$58,000 in income taxes for the two prosecution years. The Government proved that Cooper's heroin distribution network generated approximately \$300,000 in monthly gross receipts. Cooper laundered his narcotics related income through the purchases of video game arcades and machines in the Washington, D.C. area.

On April 6, 1984, in cases arising out of the Presidential Drug Task Force Field Grand Jury Investigation in Chicago, Elliot S. Kaye, a major customer of Edward Fields' cocaine distribution ring during 1978 through 1980, and Richard E. Baker, a former major cocaine trafficker, pled guilty to various federal criminal charges, including racketeering, possession of cocaine with intent to distribute, and income tax evasion. As part of his plea agreement, Kaye admitted to the amounts of additional taxes, the civil fraud penalty, and interest for 1979 and 1980, totalling \$221,392. Baker pled guilty to racketeering charges, possession of a multikilogram quantity of cocaine and income tax evasion for 1979. During the prosecution period, Baker dealt extensively in cash and destroyed records relating to his narcotics trafficking. During 1979, Baker purchased and sold at least 42 kilograms of cocaine. Kaye and Baker's entries of guilty pleas followed earlier guilty pleas by other defendants in this massive tax/narcotics prosecution. On March 5, 1984, Myron B. Matsumoto, a sign maker from Las Vegas, Nevada, pled guilty to racketeering, possession of cocaine with intent to distribute, and income tax evasion for his role in regularly purchasing multikilogram quantities of cocaine from Edward Fields, Carl Valdes, and their cocaine marketing distribution ring during 1978 and 1979. On January 24, 1984, John J. Unger, a factory foreman from Prospect Heights, Illinois, pled guilty to a conspiracy to violate the Federal Narcotics Laws and willfully failing to file an income tax return for 1979. On November 7, 1983, Jack W. Baileman, a truck driver from Prospect Heights, Illinois, pled guilty to racketeering charges involving cocaine, interstate travelling in furtherance of a narcotics activity, and willfully filing a false income tax return for 1978.

In other areas, twelve Criminal Section attorneys participated in the 14th Major Drug Traffickers Prosecution Conference. This Conference was an effort to gain further information regarding the interaction of the ODE Task Force components and to better understand the Task Force concept. Other participants included Drug Task Force field personnel from U.S. Attorneys' Offices and other administrative agencies involved in the Narcotics Task Force Program. Topics discussed at the conference included: Goals and Policies of the Drug Task Forces; Case Selection and Investigative and Prosecutorial Responsibilities of the Task Forces; Problems Arising from Foreign Bank Secrecy Laws; and the Utilization of R.I.C.O. and Continuing Criminal Enterprise Statutes in Major Drug Investigations.

A final important, but less quantifiable, measure of this program's workload is the emphasis that must be placed on "expediting" these cases. As contained in the ODE Task Force Program Annual Report "In order to be a fully effective Task Force member, IRS has gone a long way toward streamlining its procedures for approval of Title 26 charges. These now bypass review by Regional Counsel and go directly to the Tax Division of the Department of Justice for approval. This has reduced the time required for review and approval from as long as six months to as little as three days in emergencies, making other agencies more willing to entertain tax charges associated with the drug charges in Task Force cases."

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm.	Pos.	NY Amount	Perm.	Pos.	NY Amount	Perm.	Pos.	NY Amount	Perm.	Pos.
Management and administration .....	98	111	\$4,410	98	111	\$4,503	98	111	\$3,976	...	...
											-\$527

Long-Range Goal: To provide continuing direction, focus, and leadership to all Division programs; to promote the maintenance of a thorough, fair, and timely settlement review process; to monitor and provide timely review, analysis of, and comment on proposed legislation affecting the Division and the Internal Revenue Laws; to ensure the fulfillment of the Division's administrative responsibilities under the FOIA, the Privacy Act, and Section 6103 of the Internal Revenue Code; and to provide essential administrative support services.

#### Major Objectives:

To ensure the maintenance of precise, consistent, and uniform litigating positions and to enhance Division liaison and relations with the Internal Revenue Service.

To negotiate and/or evaluate controversial settlements or those which are particularly significant in terms of issue or money.

To identify, and to review thoroughly, proposed legislation of interest to the Division, to respond to all legislative inquiries, and to utilize this program's expertise in tax litigation in developing legislative solutions to recurring problem areas.

To conform to both the legislatively prescribed response deadlines and statutorily mandated tax return information confidentiality requirements in the handling of FOIA and Privacy Act matters.

To provide essential administrative support services to all programs of the Tax Division through both the continued performance of current activities and the identification of those areas in which administrative management techniques, modern office practices and equipment, and other innovations can be initiated to support the Division's overall mission.

Base Program Description: Direction, focus, and leadership in each area of its activity are prerequisites to the Tax Division's ability to discharge successfully its responsibilities as legal counsel to the Internal Revenue Service and other client agencies. This program's Executive Direction and Control activity provides leadership for the Tax Division in all areas of its litigation responsibilities and represents the Division's position on a variety of issues of interest to client and other outside agencies, the Congress, and various public interest organizations. Specifically, this program is responsible for: (1) providing civil and criminal tax litigation policy leadership, guidance, and support; (2) promoting effective communication flows and strengthened liaison with the Internal Revenue Service and other client agencies; (3) developing and reviewing the Division's major litigation decisions in order to ensure that appropriate and uniform national policies are being developed and maintained; and (4) negotiating and/or evaluating and making recommendations on those compromises effected by the Division which involve sharp differences of opinion or are particularly significant in terms of issue or money. In addition, the program's legislative staff is responsible for providing reports to the Congress, the Office of Management and Budget, the Office of Legal Policy, and the Office of Legislative Affairs concerning pending or proposed legislation, coordinating the Division's legislative efforts, and identifying legislative proposals of interest to the Division and developing the Division's views. In the FOIA/PA administrative area, the Freedom of Information and Privacy Unit is responsible for developing and coordinating the Division's response to all taxpayer requests under the Acts and related statutory provisions and for handling administrative appeals arising from the denial of such requests.

The Administrative Services activity is divided into four basic components: (1) the Executive Office, which has responsibility for providing the overall control and guidance to the activity; (2) the Comptroller's Staff, which has responsibility for the financial management, budget, and program evaluation functions; (3) the Information Resources Staff, which has responsibility for the development, coordination, and maintenance of the automated case management, litigation support, and word-processing activities of the Division; and (4) the Services Staff, which is responsible for the personnel management, resource services, and case and file control.

Accomplishments and Workload: In the Executive Direction and Control program, the Division's leadership has placed greater emphasis on the coordination of tax enforcement programs with the Internal Revenue Service during the past year. For example, a major priority has been the implementation of the Abusive Tax Shelter Injunction provisions of TEFRA. In addition to working closely with the Service to develop guidelines for prosecution, this program has joined with the I.R.S. in press conferences and news releases in order to publicize these new enforcement initiatives. The Division sponsored Advisory Committees on Tax Litigation also aided in representing the Division's position to the public and tax media on such subjects as the remedial filing program, the tax protester movement, and appellate litigation. Finally, as in previous years, the Division's leadership provided speakers to bar association meetings, I.R.S. conferences, and other public forums.

Considerable effort also was expended by the Division's leadership in examining the Division's internal structure, first in response to the transfer of positions to the U.S. Attorneys offices, and later in preparation for the resource increases for 1985. Several major

Important management changes including the restructuring of the Review Section and the creation of the Office of Special Litigation have resulted in a more efficient and effective manner of handling the Division's growing caseload.

The workload of the FOIA/PA activity of this program is presented in the following table:

	Estimate		
	1983	1984	1985
1. FOIA/PA:			
a. Initial Requests Pending	155	107	119
b. Initial Requests Received	162	223	250
c. Initial Requests Handled	210	231	250
d. Admin. Appeals Pending	5	19	7
e. Admin. Appeals Received	19	13	15
f. Admin. Appeals Handled	5	25	15

In the FOIA/PA area, the program has begun to address its backlog of pending requests and will maintain this level. However, the complexity of the legal and administrative problems associated with these requests in conjunction with criminal or civil tax controversies involving the Internal Revenue Service and/or the Tax Division continues to increase. Immediately following the 1975 amendments, most requestors were individuals who simply were curious to learn if the Division had information in its files. As the number of requests associated with existing files has increased, the amount of time necessary to review these files, both at the program level and at higher levels of review, has increased substantially. These requests also are being filed by private litigants as discovery tools in civil litigation to obtain information gathered by the Government for use in non-tax related controversies.

In the Administrative Services program, significant resources have been committed to increasing the services that it provides to Division personnel through the use of automation. For example, the Comptroller's Staff has expanded its use of the Department's Financial Management Information System (FMIS) to include reports on expert witnesses and FTR consumption. In addition, this Staff has developed personal computer programs to provide projections of expenditures and staffing levels. The Information Resources Staff has continued the conversion to the I.B.M. System 38 and has been active in developing a number of user-requested reports from data available in the Division's Case Management System. Finally, this Staff has implemented a Personal Computer Pilot Project in the Division's Appellate Section in order to assess the utility of this equipment for future expansion throughout the Division.

The Administrative Services program also has been active in preparing for the major personnel increases of 1985. For example, a study was conducted in order to assess the potential for the use of paralegals in the Division. As a result of this study and of the work of a special committee on litigation support formed because of this study, the active recruitment of paralegals is currently taking place. This program's staff also has devoted a substantial amount of time to a recruitment program for attorneys (advertising positions available and providing assistance in the screening, interviewing, and selection of attorney applicants) and secretaries (coordinating interviews throughout area high schools in order to identify potential secretarial candidates as well as the testing and selection process). In response to the current and projected entry on duty of a number of additional employees coupled with the ongoing urgency to find replacement space for the Tax Division, extensive work has been required for the acquisition and preparation of additional space and the temporary relocation of approximately one half of the Division's workforce as well as the planning for future facility needs. Finally, this program has established a centralized Travel Office responsible for the preparation of travel authorizations and vouchers in order to more effectively handle the increased travel requirements of the Division's attorney staff.

Program Changes: In response to the Government-wide Initiative to reduce Management and Administration costs, a decrease in funding of \$527,000 is requested for this program for 1986. This decrease will be realized through the decentralization of several current program functions to the Division's litigation programs. The planned actions include: (1) the discontinuation of the centralized settlement review as a part of this program. The Division's Civil Trial Litigation program will have full responsibility for this function; (2) the termination of centralized Case Management System data entry. This function will be the responsibility of the non-legal staffs of the Division's litigation programs; (3) the reassignment of the Division's Senior Litigation Staff to the specific litigation areas of their expertise. The consolidation of these three functions into the Division's substantive programs will result in both greater efficiency and a reduction in centralized management and administrative costs.



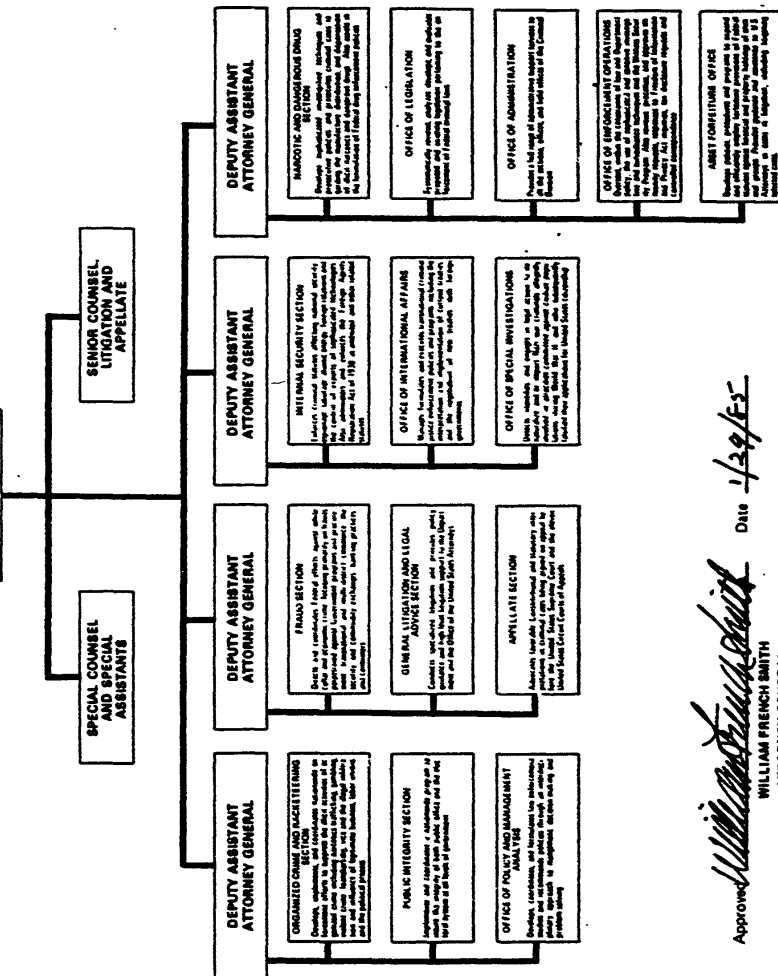
Tax Division  
Salaries and expenses, General Activities  
Priority Rankings

<u>Program</u>	<u>Base Program</u>	<u>Ranking</u>
Management and Administration		1
Criminal Tax Prosecution		2
Organized Crime Drug Enforcement		3
Civil Tax Litigation Activity		4
Federal Appellate Activity		5

Tax DivisionSalaries and expenses, General Legal ActivitiesDetail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985 Authorized	1986 Requested
Attorneys (905) .....	261	343	343
Paralegal Specialists (950) .....	17	17	17
Other Legal and Kindred (900-998) .....	29	29	29
General Admin. Clerical and Office Services (300-399) .....	207	240	240
Accounting and Budget (500-599) .....	5	5	5
Total .....	519	634	634
Washington .....	501	616	616
U.S. Field .....	18	18	18
Total .....	519	634	634

**ASSISTANT ATTORNEY  
GENERAL**



Approved: William French Smith  
 Date: 1/29/85  
 WILLIAM FRENCH SMITH  
 ATTORNEY GENERAL

Criminal Division  
Salaries and expenses, General Legal Activities  
Crosswalk of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's		Congressional		1985 Supplementals		1985		1985	
	Pos.	My Amt.	Pos.	My Amt.	Pos.	My Amt.	Pos.	My Amt.	Pos.	My Amt.
Federal appellate activity....	28	\$1,577	...	...	...	...	3	1	843	\$27
Organized crime prosecution...	238	225	14,174	...	...	...	2	1	30	249
Public integrity (corruption)...	35	34	2,148	...	...	...	...	...	...	37
Fraud.....	69	64	4,400	...	...	...	5	2	93	73
Narcotic & dangerous drug	...	...	...	...	...	...	...	...	...	...
prosecution.....	29	1,808	...	...	...	...	...	...	...	32
Internal security.....	35	32	1,971	...	...	...	...	...	...	34
General litigation &	...	...	...	...	...	...	...	...	...	...
legal advice.....	46	41	2,850	...	...	...	6	1	87	48
Office of special	...	...	...	...	...	...	...	...	...	...
Investigations.....	47	47	3,079	...	...	...	...	...	...	49
Prosecution support.....	112	108	5,622	-6	-5	-587	2	...	12	2
Organized crime	...	...	...	...	...	...	...	...	...	113
drug enforcement.....	6	6	597	...	...	...	...	...	...	6
Management & administration...	89	91	6,555	...	...	-1,472	...	...	...	95
Total.....	734	705	44,781	-6	-5	-2,639	...	...	28	7
									400	763

Explanation of Analysis of Changes from 1984 Appropriation Request

Congressional Appropriation Actions

In enacting P.L. 98-411, the Congress denied six positions and \$491,000 requested for International Activities, \$1,277,000 in program increases requested for management and administration, and \$791,000 in uncontrollable increases requested for Standard Level User Charges (SLUC).

Reprogramming

The reprogramming simply realigned positions and workyears in a manner that is more consistent with the rate at which available positions were actually used by the component organizations in the preceding fiscal year. In addition \$5,000 is reprogrammed to fund the close out of the Independent Counsel's Office.

Supplementals Requested

The Supplemental request consists of 28 positions, 7 workyears and \$400,000 to implement the Comprehensive Crime Control Act and \$763,000 for pay request to meet increased pay requirement (Executive Order 12496, dated December 28, 1984).

Proposed Recession

In accordance with section 2901 of the Deficit Reduction Act, \$114,000 is proposed for recessions in the travel, transportation, and printing area.



Criminal Division  
Salaries and expenses, General Legal Activities  
Summary of Adjustments to Base  
(Dollars in thousands)

	Perm. Pos.	Work- years	Amount
1985 as enacted.....	728	700	\$42,122
Reprogramming to Independent Counsel.....	...	...	-5
Supplementals requested:			
Pay increase supplemental requested:			
Increased pay costs.....			Amount
Amount absorbed.....			\$781
Net pay supplemental.....			-18
Program supplemental for Comprehensive Crime Control Act of 1984.....	28	7	763
Proposed rescission for Section 2901 of the Deficit Reduction Act of 1984.....	...	...	-114
1985 appropriation anticipated.....	756	707	43,166
Adjustments to base:			
Savings resulting from management initiatives:			
Five percent pay reduction.....	...	...	-981
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....	...	...	59
Restoration of reprogramming to Independent Counsel.....	...	...	5
Annualization of 1985 pay increase.....	...	...	328
Annualization of additional positions approved in 1985.....	...	21	1,119
Within-grade increases.....	...	...	288
Health benefits costs.....	...	...	60
GPO printing costs.....	...	...	3
GSA recurring reimbursable services.....	...	...	14
Federal Telecommunications System (FIS) rate increases.....	...	...	56
Departmental telecommunications.....	...	...	44
Automated legal research and litigation support services.....	...	...	11
General pricing level adjustment.....	...	...	419
Total uncontrollable increases.....	...	21	2,406
Decrease:			
Rate decrease for full-field investigations.....	...	...	-10
1986 base.....	756	728	44,581

Criminal Division  
Salaries and expenses, General Legal Activities  
Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1984 as Enacted			1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Pos.	NY	Amt.	Perm.	NY	Amt.	Pos.	NY	Amt.	Perm.	NY	Amt.	Pos.	NY	Amt.	Perm.	NY	Amt.
Federal appellate activity.....	28	25	\$1,442	28	26	\$1,519	29	27	\$1,676	29	29	\$1,806	29	29	\$1,806	...	...	...
Organized crime prosecution....	235	222	12,771	235	216	12,719	240	226	14,112	240	227	14,260	240	227	14,260	...	...	...
Public Integrity (corruption)...	35	34	1,981	35	32	2,023	35	34	2,148	35	34	2,161	35	34	2,161	...	...	...
Fraud.....	66	61	3,873	66	63	4,010	75	66	4,486	75	69	4,774	75	69	4,774	...	...	...
Narcotic & dangerous drug prosecution.....	26	26	1,438	26	27	1,505	31	29	1,812	31	29	1,823	31	29	1,823	...	...	...
Internal security.....	32	30	1,591	32	27	1,451	32	31	1,899	32	31	1,923	32	31	1,923	...	...	...
General litigation & legal advice.....	46	44	2,634	46	43	2,593	52	45	2,930	52	50	3,189	52	50	3,189	...	...	...
Offices of special investigations.....	47	47	2,752	47	41	2,397	47	47	3,072	47	47	3,088	47	47	3,088	...	...	...
Prosecution support.....	100	99	4,166	100	99	4,372	120	105	5,278	120	115	5,772	120	115	5,772	...	...	...
Organized crime drug enforcement.....	...	...	...	...	...	...	6	6	595	6	6	595	6	6	595	...	...	...
Management & administration....	89	91	4,635	89	86	4,554	89	91	5,158	89	91	5,190	89	91	4,572	...	...	-\$618
Total.....	704	679	37,283	704	660	37,143	756	707	43,166	756	728	44,581	756	728	43,963	...	...	-\$618
Other Workyears																		
Overtime.....					5			2			2			2				
Total compensable workyears.....					665			709			730			730				

Criminal DivisionSalaries and expenses, General Legal ActivitiesJustification of Program and PerformanceActivity Resource Summary  
(Dollars in thousands)

Activity: Criminal matters	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Federal appellate activity.....	29	27	\$1,676	29	29	\$1,806	29	29	\$1,806	...	...	...
Organized crime prosecution.....	240	226	14,112	240	227	14,260	240	227	14,260	...	...	...
Public Integrity (corruption).....	35	34	2,148	35	34	2,161	35	34	2,161	...	...	...
Fraud.....	75	66	4,486	75	69	4,774	75	69	4,774	...	...	...
Narcotic & dangerous drug prosecution.....	31	29	1,812	31	29	1,823	31	29	1,823	...	...	...
Internal security.....	32	31	1,899	32	31	1,923	32	31	1,923	...	...	...
General litigation & legal advice.....	52	45	2,930	52	50	3,189	52	50	3,189	...	...	...
Office of special investigations.....	47	47	3,072	47	47	3,088	47	47	3,088	...	...	...
Prosecution support.....	120	105	5,278	120	115	5,772	120	115	5,772	...	...	...
Organized crime drug enforcement.....	6	6	595	6	6	595	6	6	595	...	...	...
Management & administration.....	89	91	5,158	89	91	5,190	89	91	5,190	...	...	...
Total.....	756	707	43,166	756	728	44,581	756	728	43,963	...	...	-\$618

This budget activity includes resources for the primary missions of the Criminal Division. Funds requested for this activity support personnel involved both at headquarters and in the field in the prosecution of over 900 criminal statutes.

Activity: Criminal matters	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Federal appellate activity.....	29	27	\$1,676	29	29	\$1,806	29	29	\$1,806	...	...	...



Long-range Goal: To secure judicial interpretations favorable to the administration of criminal justice.

Major Objectives:

To prepare briefs and petitions for the Solicitor General in Supreme Court cases.

To handle circuit court appeals referred to this program by other components of the Division and by the United States Attorneys.

To prepare memoranda on behalf of the Criminal Division to the Solicitor General recommending whether further review should be sought for lower court decisions which are adverse to the government.

To devise creative and, when necessary, innovative approaches to issues of first impression so as to provide a foundation for the development of new concepts in criminal law.

Base Program Description: The Appellate Section reviews all federal criminal cases presented to the Supreme Court for a writ of certiorari, the Section determines whether to respond or to waive a response because the written opinion of a lower court adequately answers the claims presented in the petition. If a response is deemed unnecessary, that decision is forwarded to the Office of the Solicitor General. If the decision is made to respond to the petition, a brief opposing review by the Supreme Court is prepared by an Appellate Section attorney and forwarded to the Solicitor General for approval and filing. The Appellate Section also examines Court of Appeals decisions that are adverse to the Department of Justice, making influential recommendations to the Solicitor General on behalf of the Criminal Division as to whether review of these decisions by the Supreme Court should be sought. The Solicitor General authorizes a request for Supreme Court review, the Section prepares petitions for a writ of certiorari. The Appellate Section is charged with researching the law thoroughly and drafting the strongest possible arguments in favor of the government's position. Whenever the Supreme Court agrees to review a federal criminal case, the Appellate Section is responsible for formulating the position of the Criminal Division on issues presented for review, researching the applicable principles of law, and drafting the Criminal Division's view for the government's brief.

The Appellate Section also makes recommendations for the Criminal Division as to whether the Federal government should participate as *amicus curiae* in State cases pending before the Supreme Court. If such participation is authorized, the Appellate Section performs the research and brief-writing tasks in preparation for the filing of the *amicus curiae* brief.

The Appellate Section also performs important roles in Court of Appeals cases. Frequently at the request of United States Attorneys, Section attorneys write briefs and participate in oral argument in all of the circuits. This assistance is particularly noteworthy because it leads to the handling by the Appellate Section of many important appeals containing serious constitutional questions or issues of first impression. The development of case law in some crucial areas has been favorable to the government's position because of the contribution of expertise by Appellate Section attorneys. Since the Supreme Court reviews fewer than one percent of all cases presented for its consideration, the decisions rendered by Courts of Appeals customarily represent the final say on critical issues of law.

Accomplishments and Workload: The quantitative experience and expectations of the Appellate Section are presented in the following tables:

Item	Estimates			
	1983	1984	1985	1986
Briefs in opposition to certiorari petitions.....	346	401	400	400
Court of Appeals briefs and arguments.....	166	185	185	185
Supreme Court briefs (including amicus curiae).....	23	27	25	25
Government petitions for certiorari.....	16	21	20	20
Adverse decision memoranda.....	700	800	800	800
Supreme Court waivers of response.....	996	750	750	750

The Appellate Section also provides legal advice and other assistance to United States Attorneys throughout the country, to colleagues in other sections of the Criminal Division, and to other components of the Department of Justice. The Section's advice frequently is solicited in serious cases where crucial, and at times, unprecedented issues have arisen. Requests for advice are received at any stage of the criminal process, from the earliest pretrial period, to mid-trial, to appellate review.

The Appellate Section and the Solicitor General's Office write briefs in criminal cases submitted to the Supreme Court. Although these cases involve all aspects of the criminal justice system, the most notable this term arose in the series of search and seizure cases that were decided in favor of either the State or Federal government. The cases included United States v. Leon, No. 82-1771 (July 5, 1984) establishing good faith exception to the exclusionary rule in warrant cases; Massachusetts v. Sheppard, No. 82-963 (July 5, 1983) (companion cases); Segura v. United States, No. 82-5298 (July 5, 1984) (seizure of house pending warrant); Nix v. Williams, No. 82-1651 (June 11, 1984) (inevitable discovery doctrine); Oliver v. United States, No. 82-15 and Maine v. Thornton, No. 82-1273 (April 17, 1984) (open field doctrine); United States v. Jacobsen, No. 82-1167 (April 2, 1984) (controlled delivery following field test of package accidentally opened by carrier).

Other important criminal cases in which the Appellate Section drafted the Supreme Court brief for the Division included United States v. Gouveia, No. 83-128 (May 29, 1984), concerning the right to counsel during administrative detention; Mabey v. Cronie, No. 82-660 (May 14, 1984) regarding the standards and use of inferences in determining ineffective assistance of counsel; and United States v. Russell, No. 82-472 (Nov. 1, 1983) on the criminal forfeiture provision contained in the Racketeer Influenced and Corrupt Organization Act (RICO) 18 U.S.C. 1963(a)(1) which authorizes the forfeiture of profits and proceeds of an illegal enterprise).

Additionally, the Section handled a variety of important issues in cases argued before eleven of the twelve Courts of Appeals. These cases required drafting the government's brief and arguing the case either before a three-judge panel, or the court sitting en banc. Cases in the Courts of Appeals in which a Section attorney wrote the brief include the following: United States v. Mayte, 710 F.2d 1385 (9th Cir. 1983), denied defendant's claim of selective prosecution in instances where identities of other violators were not known and where defendant expressed his refusal to register under the Selective Service Act; United States v. Carter, 721 F.2d 1514, 11th Cir. 1984 clarified important questions regarding the elements of the RICO offense; United States v. Pragna, F.2d 99th Cir. Docket No. 83-5275, May 8, 1984, reversing a District Court decision to modify a convicted defendant's sentence because of the place where defendant was designated to serve his sentence, leaving the decision on the location of incarceration to the discretion of the Executive Branch; United States v. Lyons, 731 F.2d 243 (5th Cir. 1984) eliminating the volitional prong of the insanity defense; United States v. Underwood, 717 F.2d 482 (9th Cir. 1984) (en banc), allowing entry into a home to effectuate an arrest based upon an arrest warrant and reason to believe defendant was present; United States v. Michellena-Orcio, 719 F.2d 738 (5th Cir. 1984) (en banc) upholding a conviction of conspiracy to import twelve tons of marijuana; and United States v. Powell, 720 F.2d 1195 (11th Cir. 1983), clarifying the application of the Classified Information Procedures Act.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount
Organized crime prosecution.....	240	226 \$14,112	240	227 \$14,260	...	...

Long-Range Goal: To reduce the influence of major organized criminal activities on the economic, political, and social institutions of the United States.

Major Objectives:

To conduct the investigation and prosecution of all major organized crime matters.

To initiate new investigative approaches and ensure full and appropriate use of all statutory and other tools effective in organized crime prosecution.

To provide prosecutorial support and assistance to other Federal, state and local officials combatting organized crime.

To maintain national liaison, planning and coordination among all Federal agencies involved in organized crime law enforcement.

Base Program Description: The resources of the Division's organized crime program have been directed at those organized crime groups which appear to pose the greatest threat to the economic, political and social well-being of the country. Most of the attorneys in this program are assigned to Organized Crime Strike Forces located in 26 major cities where organized crime is viewed as most influential and, therefore, constituting the greatest threat. The program's Washington-based office is responsible for overseeing the activities of the Strike Forces, and ensuring that they comply with the five general priority areas established for the program: organized criminal involvement in labor-management racketeering, business infiltration, violent crime, public corruption and narcotics. The policy guidance provided to the Individual Strike Forces is also tailored to accommodate special regional considerations. Each Individual Strike Force is responsible for coordinating the Federal effort against organized crime within its assigned region. In cooperation with the U.S. Attorneys and with state and local authorities, it identifies the major organized crime organizations and activities, conducts the appropriate investigations, and prosecutes the targeted offenders. Each Strike Force is composed of Criminal Division attorneys, investigators from virtually every Federal agency concerned with organized crime, and, in many cases, representatives of state and local agencies. This interagency approach means that more information is shared, that inefficient competition among agencies and duplication of effort is reduced to a minimum, and that the expertise of a variety of disciplines is marshaled for a unified, more comprehensive approach to the problem. Attorneys in the Strike Forces are brought into an investigation at its inception to determine whether the case has sufficient merit to be continued, in light of established priorities, and to ensure that the conduct of the investigation both complies with all applicable legal requirements and takes advantage of the most effective statutory tools available. The Washington office is responsible for assessing the relative needs of different cities and districts for Strike Force attention. Finally, the objective to maintain liaison among all Federal agencies involved in organized crime law enforcement is being addressed at two levels. First, the fact that each of the Strike Forces is composed of representatives of virtually all these agencies means that an effective liaison is

maintained at the working level through day-to-day, on-the-job contact. Prosecutors and investigators work side-by-side on their joint cases, and Strike Force heads are in constant communication with the managers of the investigators' respective agencies. Second, at the national level, the chief of the program chairs the National Organized Crime Planning Council (NOCCPC), which meets almost every month. The members represent all the Federal agencies combatting organized crime, and the primary purposes served are achieving a consensus on planning national efforts, evaluating Strike Force activities, maintaining liaison among Federal agency directors, sharing information, and identifying and resolving common problems.

Accomplishments and Workload: The recent experience and future projections of the Organized Crime prosecution program are summarized quantitatively in the following table:

Item	Estimates			
	1983	1984	1985	1986
<u>Matters:</u>				
Pending, beginning of year.....	349	381	404	404
Opened.....	219	197	210	210
Closed.....	187	174	210	210
Pending, end of year.....	381	404	404	404
<u>Cases (lead prosecutions):</u>				
Pending, beginning of year.....	244	249	257	257
Opened.....	203	172	200	200
Closed.....	198	164	200	200
Pending, end of year.....	249	257	257	257
<u>Disposition of defendants</u>				
<u>in cases litigated:</u>				
Convictions.....	322	372	348	345
Acquittals/dismissals.....	50	82	61	60
Other dispositions.....	78	70	59	73

Some of the important cases concluded in 1984 are reviewed below:

--Infiltration of Legitimate Business. In Boston, Massachusetts, New England mob captain Carlo Mastrototaro was sentenced to serve three years in prison and fined \$10,000 after he was found guilty by a jury after defrauding 3,000 consumers of close to \$100,000 through a travel agency with which he was associated. In Milwaukee, Wisconsin, mob boss Frank Balistreri was sentenced to serve 13 years in prison and fined \$30,000 for controlling that city's coin machine industry through extortion. In Brooklyn, New York, mob leader Paul Varrio was sentenced to serve four years in prison

and fined \$10,000 for his part in a scheme to influence a businessman to provide mob associate Henry Hill a "no-show" job to gain Hill's early release from prison and, mob boss Phillip "Dandy Phil" Rastelli was returned to jail for violation of his parole. Rastelli had been released in 1962 after serving a sentence imposed in 1976 for antitrust violations committed while attempting to monopolize the mobile lunch truck industry in New York City. He will now remain in jail until December 1986. Also Brooklyn, New York, Prince Carpantry, Inc. was fined \$11,000 and ordered to pay over \$660,000 in restitution to the Carpenters Benefit Fund, The Unemployment Insurance Division of the State of New York and the IRS as a result of a tax fraud and mail fraud conviction involving a scheme to pay 41 carpenters "off the books" to gain a competitive advantage in job bidding. In over 30 of these instances, Prince had certified the carpenters as unemployed, triggering their acquisition of State benefits.

In Chicago, Illinois, Joseph Grieco and Joseph Arnold were sentenced to serve prison terms of five years and fined \$15,000 on loansharking charges. Evidence at the sentencing hearing showed that a "legitimate" money-lending business run by Grieco was actually a loansharking and money laundering front for the Chicago syndicate. In Kansas City, Missouri, several organized crime figures were convicted for their parts in a scheme to "skim" money from the casinos once operated by Argent Corp. In Las Vegas, Nevada, New York mob leader Samuel Marante was sentenced to ten years, in addition to 55 months Marante is presently serving, for loansharking at a legal Las Vegas race and sports book.

--Corruption of Public Officials. In Detroit, Michigan, owners of five sewage sludge disposal concerns were found guilty by a jury of conspiring to pay a Detroit city official \$2,000 per month to obtain favorable treatment in their contractual relations with that city. Over \$2,600,000 in forfeitures have been entered in this matter. In Chicago, Illinois, County Commissioner Martin Tuchow and Alderman Louis P. Farina were convicted of extortion in granting building permits.

--Labor Racketeering. In Baton Rouge, Louisiana, the powerful Teamster official Edward Grady Partin pled nolo contendere to an indictment charging him with embezzlement of \$446,000 from Teamster's Local 5, which he had dominated for 30 years. Partin was sentenced to six years in prison. In Newark, New Jersey, a jury found Teamster Local 560 president Salvatore Provenzano and former president Nuzzio Provenzano (brothers of mob captain Anthony "Tony Pro" Provenzano, whom they succeeded as president following his extortion conviction) guilty of a massive fraud on the union's dental plan. Salvatore Provenzano was sentenced to three years in prison and Nuzzio to 18 months in addition to the ten years he is now serving on another charge. In an unrelated civil RICO action, a court ordered the entire Provenzano cotierle to divest themselves of all relationships with Local 560.

--Violence. In New Orleans, Louisiana, a jury found Joseph Robert "Junior" Provenzano guilty of obstruction of justice following repeated threats to Grand Jury witnesses against him. Provenzano, the grandson of the founder of the New Orleans "family", was often mentioned as a possible successor to recently-jailed mob boss Carlos Marcello. He was sentenced to serve two years in prison and still faces additional racketeering charges. In Cleveland, Ohio, mob member John Montana was convicted for his part in the murder for profit of wealthy Chicago industrialist Henry Podborsky. In Providence, Rhode Island, organized crime faction leader Gerald T. Oulmette was convicted and sentenced to serve 18 years in prison for possession of a firearm with the serial number obliterated. The firearm was in Oulmette's possession while he was present at the bludgeoning death of gang rival Doglees Gomes.

--Drug Trafficking. In Detroit, Michigan, a Florida insurance man, Richard David Gazie, supplier to a major cocaine dealer in south central Michigan, was convicted by a jury and jailed for ten years. Lyle Parks, the cocaine dealer, pled guilty and was also given a ten year sentence.

In Philadelphia, Pennsylvania, George "Cowboy" Mortorano pled guilty to a role in a drug ring which distributed drugs whose worth was in excess of \$75 million per year at retail. In New Orleans, Louisiana, the former Captain of the Harrison County, Miss., Sheriff's Department, Roy E. Walker was sentenced to serve nine years in prison for his role in protecting importation of over 30 tons of marijuana. A forfeiture of \$3,000,000 was obtained in the case.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount
Public integrity.....	35	34	\$2,148	35	34	\$2,161	35	34	\$2,161	...	...	...

Long-Range Goal: To enhance the public's confidence in elected and appointed officials at all levels of government by deterring dishonesty and corruption in the discharge of the public's business and by protecting the integrity of the franchise.

Major Objectives:

- To supervise the investigation and conduct the prosecution of selected corruption cases at the Federal, State and local government levels.
- To supervise the investigation and conduct the prosecution of all matters involving alleged criminal misconduct by Federal judges.
- To ensure an effective Federal law enforcement effort against election fraud and criminal conflicts of interest among Federal employees.
- To assist U.S. Attorney personnel in developing their own capabilities to recognize, investigate and prosecute public corruption and election fraud offenses.
- To respond, within the statutory time limits, to complaints subject to the Independent Counsel provisions of the Ethics in Government Act (28 U.S.C. 591, et seq.) and, after investigation, to make timely recommendations to the Attorney General concerning the need for the appointment of independent counsel in such matters.
- To establish and maintain liaison with the Inspectors General and others responsible for the investigation and administrative discipline of public employees and to ensure the flow of intelligence concerning employee crimes to Federal prosecutorial personnel.

Base Program Description: The Public Integrity Section prosecutes selected cases against Federal, State, and local officials, and its staff is available as a source of advice and expertise to law enforcement officials and prosecutors at all levels of government. In addition, the program serves as a center for planning, coordinating and implementing nationwide programs focused on public corruption and abuse of the franchise. Approximately 75 percent of the program's resources are presently devoted to operational responsibilities for investigation and litigation of cases and matters, while about 25 percent of its resources are presently devoted to support of United States Attorney activities. In addition to the cases it has developed itself or cases that arise out of its special initiatives, the program is responsible for the prosecution of

corruption cases in which United States Attorney personnel have recused themselves, and it routinely assists in the disposition of public corruption matters involving multi-district problems or unusually sensitive subject matter.

Accomplishments and Workload: The recent experience and projections for the future with regard to litigation for which the Public Integrity Section is directly responsible are summarized quantitatively in the following table:

Item	Estimates			
	1983	1984	1985	1986
<u>Matters:</u>				
Pending, beginning of year.....	117	117	122	122
Opened.....	152	197	175	175
Closed.....	152	192	175	175
Pending, end of year.....	117	122	122	122
<u>Cases (Lead prosecutions):</u>				
Pending, beginning of year.....	21	34	30	30
Opened.....	41	24	25	25
Closed.....	28	28	25	25
Pending, end of year.....	34	30	30	30
<u>Disposition of defendants in cases litigated:</u>				
Convictions.....	59	72	60	60
Acquittals/dismissals.....	3	...	...	...
Other dispositions.....	3	...	...	...

Some of the important cases conducted in 1984 are reviewed below:

--Official Corruption. Much of the prosecutorial effort of the Public Integrity Section in 1984 was directed at abuses by law enforcement officials. An FBI agent was convicted in Brooklyn, New York of extortion, mail fraud, wire fraud, obstruction of justice and production of false identification document arising out of his handling of an informant. A former DEA agent, of the Drug Task Force in Memphis, Tennessee, was convicted of a conspiracy to distribute narcotics. A former U.S. Attorney in Cleveland, Ohio, was indicted for leaking a sealed grand jury indictment and an Assistant U.S. Attorney in Toledo, Ohio, was indicted for violating the conflict of interest statute by negotiating for employment with an individual having business before the U.S. Attorney's Office. Ten defendants, including the incumbent Sheriff and the Chief Deputy Sheriff of Harrison County, Mississippi, were convicted of racketeer, firearms and narcotics offenses arising out of a scheme to misuse the Sheriff's office to commit contract murder, prisoner buy-outs, extortion, destruction of justice and assorted federal drug offenses. A former U.S. Probation Officer, and wife of a federal judge, was convicted of obstruction of justice for leaking informant information to the subject of

a criminal investigation. Other official corruption cases not directly related to the law enforcement community included the conviction of a U.S. Congressman for violating the federal false statement statute by falsely reporting his financial interests as required by the 1978 Ethics in Government Act and the conviction of a former Assistant Administrator in the Environmental Protection Agency for making false statements, for perjury and for obstruction of a congressional proceeding. The offenses in the latter case occurred during testimony given before the U.S. Senate Committee of Public Works and Transportation. An important state government official who was prosecuted by the Public Integrity Section was the Kentucky Secretary for Public Protection and Regulation who was convicted of mail fraud as a result of a scheme to mishandle the award of a lucrative workmen's compensation insurance contract.

--Misconduct of federal judges. The Public Integrity Section obtained the conviction of a sitting federal judge in the District of Nevada for violation of federal tax laws. This conviction represented the first conviction in U.S. history of a sitting federal judge for misconduct in office.

--Election fraud. A major effort of the Public Integrity Section in 1984 was assigned to developing and organizing a nationwide law enforcement program for the detection and prosecution of voter fraud in the 1984 national election. As part of this program, an Assistant U.S. Attorney was designated as a "District Election Officer" in each federal judicial district to provide law enforcement continuity and expertise on the subject. In addition, prosecutions instigated by the Section's voter fraud projects resulted in multiple convictions in Chicago (59 convictions), in North Carolina (23 convictions), and in Northeastern Pennsylvania (30 convictions). New projects for the investigation, and possible prosecution, of alleged election fraud offenses were initiated in Florida, Georgia, and Alabama.

--Development of investigative and prosecutorial capacities. During 1984, the manual on the investigation and prosecution of election crimes, entitled "Federal Prosecution of Election Offenses," was completely revised, and and 6,500 copies were distributed. In addition, two training symposia on the detection and prosecution of public corruption and election cases were organized and conducted by the Section. The combined attendance at these symposia exceeded 350 personnel drawn from the FBI and the U.S. Attorney offices.

--Independent counsel matters. The Public Integrity Section supervised the investigation of the "Carter Briefing Book" matter and reported its finding to the Attorney General who decided against the appointment of an Independent Counsel.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	Pos.	WY	Perm.	Pos.	WY	Perm.	Pos.	WY	Perm.	Pos.	WY
Fraud.....	75	66	\$4,486	75	69	\$4,774	75	69	\$4,774	...	...	...

Long-Range Goal: To reduce the incidence of white collar crime through a comprehensive program of prevention, detection, investigation, prosecution, and punishment of white collar crime offenses.



Major Objectives:

- To conduct fraud prosecutions which require resources that exceed the capacity of individual U.S. Attorneys.
- To assist in the formulation of prosecutorial policies, especially through the conduct of selected litigation which will serve to demonstrate the viability of particular statutes, theories or techniques as model prosecutions.
- To develop and enhance local, state, federal and international law enforcement cooperation in combatting white collar crime.
- To identify recurring illegal schemes and devise new practices and procedures for minimizing opportunities for criminal conduct.
- To provide specialized training to prosecutors and investigators on effective techniques and procedures for investigating and prosecuting white collar crime cases.

**Base Program Description:** The Fraud program's overall objectives are accomplished to a great extent, through the work of its four litigating branches and its Defense Procurement Fraud Unit. The primary function of the litigating branches, around which all other functions are designed, is the conduct of major criminal investigations and prosecutions. The selection of specific investigations is based on a variety of criteria, including: magnitude of the alleged fraud scheme; ability of United States Attorney's office to handle; complexity; unique fact pattern or theory of prosecution/investigation; and, contribution to long range prosecutorial goals. Many of the investigations are complex and lengthy, requiring over two years to develop, and a team of investigators and auditors with the Section prosecutor directing the team. The Fraud program has been actively involved in numerous DOD procurement fraud cases drawn from the nearly \$600 million per day spent by DOD. Using their experience from prosecutions and investigations, Section attorneys present training programs for Federal auditors and investigators on a regular basis. In the securities fraud area, the Section maintains liaison with the national office of the Securities and Exchange Commission (SEC) and with the Commission's eight regional offices. Section attorneys are investigating several matters referred from SEC national headquarters and regional offices. The Section is often instrumental in obtaining evidence from foreign jurisdictions through the implementation of treaties and executive agreements on the use of Letters Rogatory proceedings, through reciprocal assistance provided by foreign prosecutors as a result of the assistance provided to them by the program, and through diplomatic channels as a result of the program's close liaison with the Department of State. Section attorneys are assigned to assist in the administration of the Foreign Corrupt Practices Act (FCPA) review procedure, established to satisfy the Presidential directive to provide guidance to the business community, thereby reducing any export disincentives created by perceived ambiguities in the FCPA. Section attorneys also provide staff support to projects of the Economic Crime Council, with the Section Chief serving as Executive Director of the Council. Through this work in particular, Section attorneys maintain ongoing liaison with several Inspectors General.

**Accomplishments and Workload.** The recent experience and projections for the future with regard to litigation for which the Fraud Section is directly responsible are summarized below:

Item	Estimates		
	1983	1984	1985
Matters:			
Pending, beginning of year.....	124	82	74
			74

Opened.....	34	34	40	40
Closed.....	76	42	40	40
Pending, end of year.....	82	74	74	74
<u>Cases (lead prosecutions):</u>				
Pending, beginning of year.....	44	43	34	39
Opened.....	54	31	45	40
Closed.....	55	40	40	40
Pending, end of year.....	43	34	39	39
<u>Disposition of defendants in</u>				
<u>cases litigated:</u>				
Convictions.....	64	47	50	50
Acquittals/Dismissals.....	14	5	5	5
Other dispositions.....	1	2	3	3

Some of the important individual accomplishments, outlined according to the program's major objectives, include the following:

--Assistance to U.S. Attorneys. Three situations in which the Fraud Section assumed responsibility for cases that would usually be prosecuted by a U.S. Attorney included a massive bank failure, a multidistrict defense contract fraud, and caseload backlog that developed in one district because resources were assigned to more pressing requirements. Immediately prior to the collapse of the Butcher banking empire in Tennessee and Kentucky, the Fraud Section was asked to assist the affected U.S. Attorneys, the Federal Bureau of Investigation and several Federal and state bank regulatory agencies in the ensuing investigation. The first two indictments in late 1984 covered loan transactions that caused \$15 million in losses to two now defunct banks. Additional indictments involving nine other failed banks and several million dollars are expected. In a multidistrict case, the Section convicted a nationwide contractor that supplies various military bases with vehicle replacement parts of defrauding the government of several million dollars. The scheme had been in operation for over ten years and three different U.S. Attorneys had declined prosecution of separate offenses not realizing the nationwide scope of the scheme to inflate sales slips and misrepresent brand names. In the Southern District of Florida, the Section assigned a group of attorneys to cleanup a backlog of white collar crime cases that were significant to the investigative agencies, but could not get the attention of the United States Attorney's Office. Forty-five cases were reviewed and prosecutions brought in 15 of them, with the greatest emphasis on commodities/precious metal boiler room schemes.

--Policy formulation. During 1984, the Fraud Section demonstrated the effectiveness of two novel prosecutorial theories. The first ever trial of a scheme to defraud the United States on a Defense Department contract through labor mischarging on a mail fraud theory resulted in guilty verdicts. The corporation had over 40 contracts with 200 employees in four states. Through a complex accounting system, false entries allowed the corporation to claim reimbursement in excess of \$1/2 million per year more than it was due. It was also the first case in which a President and Treasurer of a corporation were convicted. In addition, the first ever criminal conviction for defective pricing on government contracts also took place this year. The General Services Administration purchased copying machine supplies based upon price lists that suppliers claim they charged their commercial customers.

The purchasing regulations require that the government be charged at the lowest rate, when in fact the inflated price list caused a \$1.5 million overcharge in three years.

--Development of law enforcement cooperation. Through the orchestration of the Fraud Section, with the cooperation of several United States Attorney Offices, several State Attorneys General, the Federal Bureau of Investigation, Postal Inspection Service and the Inspector General's Office of the Interior Department, search warrants were executed against 22 companies in five states seeking evidence of fraudulent boiler room filling services of the Interior Department's oil and gas lottery program. The annual loss to the public caused by such fraudulent services is over \$100 million. International cooperation was abundant in another investigation that led to the indictment of three foreign nationals and a Houston based company that defrauded South Africa, Lloyds of London and Shell Oil of \$56 million on an oil sale scam. Bank records and testimony were obtained from Switzerland, the Bahamas, South Africa, Luxembourg and Liechtenstein and other evidentiary assistance came from Germany, England, Liberia, Greece, France and the Netherlands.

--Reducing opportunities for criminal conduct. Defrauding the Federal Medicare program by health care providers was identified for the Section as an area with a high degree of illegal activity but with little enforcement. Utilizing the Economic Crime Council and the Economic Crime Enforcement Conferences, a health care project was instituted with a dozen United States Attorney Offices, the Health and Human Services Inspector General and the Federal Bureau of Investigation.

--Instruction of prosecutors and investigators. The Fraud Section produces the Economic Crime Enforcement Conferences that are held twice a year and are attended by about 50 Assistant United States Attorneys. As a special project of the Economic Crime Council, this year the Section created a new Fraud and Financial Crime seminar for prosecutors that has become the permanent fourth week of the Attorneys General's Advocacy Institute basic course; conducted a securities seminar for prosecutors on inside trading; conducted two defense procurement seminars for prosecutors; and has conducted numerous sessions for defense attorneys and contractors on the Department's new approach to defense related contract fraud. The Section also provides a trial attorney each month for the White Collar Crime course for investigators at the Federal Law Enforcement Training Center in Georgia and routinely provides training for regional and headquarters Inspector General personnel. Finally, the Section publishes the Economic Crime Enforcement Bulletin six times a year. It contains articles of interest on new techniques or decisions of interest for both investigators and prosecutors.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount
Narcotic and dangerous drug prosecution.....	31	29	\$1,812	31	29	\$1,823	31	29	\$1,823	...	...	...

Long-Range Goal: To combat the growth of major criminal enterprises involved in drug trafficking by prosecuting the organizers and heads of criminal organizations that manufacture, smuggle, and distribute illicit drugs on a national or international scale.

#### Major Objectives:

- To assist in the formulation of Federal drug prosecution policies, including the development of innovative investigative and prosecutorial methods and the enhancement or modification of existing statutory authorities to foster more effective drug enforcement.
- To prosecute directly and/or to assist U.S. Attorneys in major international and multi-district cases involving the most significant violators or in implementing innovative prosecutorial methods, especially in the area of narcotics-related financial investigations.
- To furnish instruction that will improve the effectiveness of federal enforcement agents and prosecutors who are responsible for investigating and litigating drug cases.
- To promote interagency and inter-jurisdictional cooperation in the conduct of drug investigations and drug prosecutions.
- To provide legal advice to the Executive Director of the Organized Crime Drug Enforcement Program and to otherwise assist the Director in matters pertaining to policy, implementation and evaluation of the program.

Base Program Description: This program works to alleviate the conceptual and operational problems that have historically limited the effectiveness of the Federal drug enforcement effort. Its efforts involve three main areas of activity. Organizing major investigations and prosecutions that extend traditional methods, assuming direct responsibility for the prosecution of specific cases and providing legal support, in the form of instruction and advice, to drug enforcement and prosecutorial agencies. The first activity is to be exemplified by Operation Greenback.

This highly sophisticated enforcement operation is directed at identifying the assets and profits of illegal drug trafficking organizations and then seizing and obtaining the forfeiture of those assets. These efforts to disrupt the financial arrangements supporting drug distribution networks are conducted in addition to the prosecution of offenders under the drug laws. This program has provided hands-on training for enforcement agents and prosecutors in investigating and prosecuting the financial aspects of drug cases. The program, in addition, has fostered ongoing interagency cooperation because the investigations are conducted on a multi-agency basis.

All of the cases for which the Section assumes operational responsibility involve Drug Enforcement Administration Class I violators, have international or multi-district ramifications, and involve more than one federal investigative agency. The criteria considered in evaluating requests for this program's involvement include: the size, complexity and importance of a case, the extent to which the case exceeds the United States Attorney's resources, the likely investigative and prosecutive results if the Section declines the case, and the need for multi-district or interagency coordination. These cases are also undertaken at the request of the U.S. Attorney in situations where the U.S. Attorney has insufficient resources, where there could be a conflict of interest or for some other appropriate reason. The legal support activities of the Section include advising U.S. Attorney personnel on such matters as Department procedures, and recent court decisions, etc., reviewing adverse district court decisions for consideration of appellate review, analyzing legislative proposals, producing training courses and conferences, publishing a regular newsletter and assorted monographs, and participating in interagency working groups.

Accomplishments and Workload. The recent experience and projections for the future with regard to litigation for which the Narcotic and Dangerous Drug Section is directly responsible are presented quantitatively in the following table:

Item	Estimates			
	1983	1984	1985	1986
<u>Matters:</u>				
Pending, beginning of year.....	65	49	45	45
Opened.....	43	11	20	20
Closed.....	59	14	20	20
Pending, end of year.....	49	45	45	45
<u>Cases:</u>				
Pending, beginning of year.....	59	17	28	28
Opened.....	16	15	12	12
Closed.....	58	4	12	12
Pending, end of year.....	17	28	28	28
<u>Disposition of defendants in cases litigated:</u>				
Convictions.....	129	29	40	40
Acquittals/dismissals.....	10	2	3	3
Other dispositions.....	53	4	10	10

Some recent accomplishments of the Narcotic and Dangerous Drug Section are reviewed below:

--Legislative Assistance. The Narcotic and Dangerous Drug Section participated in the formulation of the Department's legislative package that culminated in the passage of the Comprehensive Crime Control Act of 1984. The penalty enhancement provisions contained in Chapter V, Section 501 et seq. of the Act, modify Title 21 U.S.C. 841 et seq. and is a direct reflection of this Administration's crack-down on drug traffickers. Also, the amendments to the Bail Reform Act (18 U.S.C. 3142 et seq.) contained in Chapter 11, sections 202 et seq. of the Act, respond to the Administration's policy of keeping dangerous criminals off the streets. In particular, major drug traffickers. Another legislative proposal with which the Narcotic and Dangerous Drug Section has been actively involved is the Controlled Substances Registrant Protection Act of 1984 otherwise known as the Pharmacy Robbery statute. This statute, which grants authority to the Federal Government to investigate robberies on pharmacies and wholesale druggists provided that some jurisdictional elements are met, is this Administration's response to the increasing number of these crimes and injuries to the victims involved. The federal effort will supplement state and local efforts in this area who prosecute the majority of these cases.

--Major prosecutions. In Indianapolis, Indiana, Sterling Litskas was indicted after an investigation that uncovered diversion operations in the United States. Along with his confederates, he was responsible for the illegal diversion of hundreds of thousands of Schedule II controlled substances from his pharmacy each year. In 1984, he was indicted for these activities. The case was designated as a Drug Task Force case and a Section attorney worked cooperatively with the United States Attorney's office, DEA and IRS agents, as well as City of Indianapolis police officers. This case was particularly significant, not only because of the size of the Litskas organization, but because it represented the Section's growing involvement in the field of diversion prosecutions. This area of prosecution promises to become an important aspect of the Section's activities. Another diversion case handled this year was *United States v. Nibauer*, (Eastern District of Pennsylvania). In Miami, Florida, Andres Rodriguez, owner of the Popular Bank and Trust Company Limited, a Cayman Island Bank and of the Northside Bank of Miami, was convicted of RICO, wire and mail fraud and conspiracy. Section attorneys working in cooperation with the Asset Forfeiture Office, the United States Attorney's Office, Miami, Florida, and with IRS and DEA agents, were able to secure a three million dollar criminal forfeiture judgment against Mr. Rodriguez. This case further signifies the Administration's policy of attaching the money laundering networks of major narcotics traffickers by pursuing forfeiture of their assets. Also in Miami, Robert Twiat, Sr., and eleven others were indicted for their marijuana smuggling activities. During 1984, several of the co-defendants either pleaded or were found guilty. One individual remains a fugitive. Section attorneys, Tax division attorney, IRS and DEA agents all cooperated to bring about these convictions. The significance of this litigation rests largely with the fact that it led to the development of the strategy through which bank documents could be obtained from United States branches of foreign banks. This "Bank of Nova Scotia" theory of document production is a significant victory for law enforcement and bolsters Administration policy of disrupting drug trafficker's financial networks. It was the precursor of the bilateral executive agreement with the Cayman Islands on exchange of information.

--Instruction in Federal law enforcement issues: Following a well established tradition of the Narcotic and Dangerous Drug Section, on October 9-11, 1984 the 15th Major Drug Trafficker's Prosecution Conference was held in Washington, D.C. This conference was attended by senior Assistant United States Attorneys of the Organized Crime Drug Enforcement Task Forces, as well as other federal, state and local law enforcement people, approximately 350 in all. In April of 1984, the Narcotic and Dangerous Drug Section sponsored a regional conference in Clearwater, Florida to discuss new enforcement initiatives as well as new prosecutive techniques. That conference was attended by approximately 150 agents and prosecutors. In addition to conferences, the Section produced an important manual for federal prosecutors and a comprehensive report on drug enforcement. In February, 1984, a monograph manual on bond and sentencing issues. This monograph is the only comprehensive study on these types of issues available to federal prosecutors nationwide. It was very well received within the federal prosecutorial community, as useful ready-reference tool. In addition, the Section wrote the "Law Enforcement Report of the Committee on Drug Supply Reduction of the Cabinet Council on Legal Policy" presented by the Attorney General to the Cabinet Council in September 1984. This comprehensive study, consisting of narrative as well as statistical segments, is a compilation of all the efforts put forth by all federal agencies with drug enforcement responsibilities during 1983.

--Interagency cooperation. The Narcotic and Dangerous Drug Section was instrumental in 1984 in achieving an agreement between the Drug Enforcement Administration and the United States Customs Service on cross-designation of agents in drug investigations. This cross-designation agreement has fostered inter-agency cooperation, particularly within the Organized Crime Drug Enforcement Task Force program. In an effort designed to foster international cooperation an experienced attorney was assigned to Bogota, Colombia for 6 weeks to assist the U.S. Embassy in processing approximately 60 extradition requests on major drug traffickers, which were pending referral to the Colombian government. The Section's attorney was instrumental in obtaining missing documents as well as supplying liaison between the U.S. Embassy and the Ministry of Justice in Bogota, Colombia.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	Pos.	WY Amount	Perm.	Pos.	WY Amount	Perm.	Pos.	WY Amount	Perm.	Pos.	WY Amount
Internal security.....	32	31	\$1,899	32	31	\$1,923	32	31	\$1,923	...	...	...

Long-Range Goal: To enforce, in an effective and uniform manner, approximately 100 criminal statutes and regulations affecting the national security and foreign relations of the United States.

Major Objectives:

To investigate and litigate cases and matters in the area of national security.

To provide oversight and supervision of all prosecutions involving the Neutrality statutes, the Espionage statutes, the Arms Export Control Act, the Export Administration Act and the Classified Information Procedure Act.

To provide legal support and investigative guidance to all Federal investigative agencies engaged in national security matters.

To administer and enforce the Foreign Agents Registration Act (FARA) and two additional registration statutes.

To enforce the Federal Regulation of Lobbying Act, a conflict of interest statute, and a portion of the Federal Election Campaign Act of 1976.

To provide assistance to Members of Congress and all other appropriate officials involved in the regulation of lobbying.

To provide staff support (in particular, the Executive Secretary) to the Interdepartmental Committee on Internal Security (ICIS).

Base Program Description: This program enforces statutes and regulations relating to the national security and foreign relations of the United States by: supervising investigations and prosecutions involving national security and foreign relations; providing legal and policy guidance to U.S. Attorneys, law enforcement agencies and the intelligence community in the area of national security litigation; administering and enforcing the FARA, including the registration of representatives of foreign governments and entities; supervising investigations, conducting inspections and conducting all FARA-related criminal and civil litigation; providing specialized legal support to U.S. Attorneys in the areas of policy interpretation, legal research, and the drafting of indictments, pleadings and other legal papers; directly participating in criminal litigation, including grand jury proceedings, trials, appeals, and related legal actions; developing, analyzing and evaluating proposed legislation related to the internal security field; serving as the focal point for interagency coordination in cases such as espionage, neutrality, arms export control and export administration violations and cases involving the Classified Information Procedures Act; and, providing staff support personnel, including the Executive Secretary, to the Interdepartmental Committee on Internal Security.

Accomplishments and Workload: The recent experience and projections for the future with regard to cases for which the Internal Security Section is directly responsible is summarized quantitatively in the following table:

Item	Estimates			
	1983	1984	1985	1986
<u>Matters:</u>				
Pending, beginning of year.....	41	38	30	37
Opened.....	14	6	25	26
Closed.....	17	16	18	20
Pending, end of year.....	38	30	37	43
<u>Cases:</u>				
Pending, beginning of year.....	6	9	17	21
Opened.....	4	8	10	12
Closed.....	1	...	6	7
Pending, end of year.....	9	17	21	26

Disposition of defendants in cases litigated:

Convictions.....	7	5	12	15
Acquittals/dismissals.....	1	...	...	...
Other disposition.....	...	1	...	...

In the past two years, the Internal Security Section has handled 13 significant espionage cases. Waldo H. Dubberstein, a former senior analyst in the Defense Intelligence Agency, was indicted in 1983 for conspiracy to communicate classified information to representatives of a foreign government, and related offenses. He was not brought to trial, however, because he committed suicide following his indictment. James Duward Harper was sentenced to life imprisonment after pleading guilty to transmitting classified information to agents of the Polish Intelligence service. Ernest Ludwig Forbrich, a West German citizen, was sentenced to a term of 15 years imprisonment after being convicted of espionage on behalf of East Germany. In the remaining cases, six persons were indicted for espionage on behalf of Bulgaria, East Germany, Czechoslovakia, and the Soviet Union, and are awaiting trial. Six other persons in three separate cases, have been indicted and are awaiting trial on charges of transmitting or attempting to transmit documents, relating to the national defense to unauthorized persons. No foreign governments are involved in these cases.

From 1981 through 1984, the Section supervised the investigation of more than one hundred reported incidents of unauthorized disclosures of classified information to the news media. The Section is responsible for supervising the investigation and prosecution of violations of the neutrality statutes which, among other things, prohibit the enlistment of persons in the United States for service in foreign armed forces, and the launching of military expeditions from the United States against any foreign government with which we are at peace. Because of the hostilities in Central America, these matters have become increasingly important, and all reported activities are investigated. The Section is responsible



for coordination, within the Department, United States Attorney Offices and other Executive agencies, of the Classified Information Procedures Act which establishes procedures under which the Government will be made aware prior to criminal trials of what classified information will have to be disclosed during trial, and can decide whether the importance of the prosecution outweighs by risk of damage to the national security which may result from such disclosure. Procedures under the Act have been used in approximately 35 cases, 20 of which were in 1983 and 1984. The Section anticipates that the number of these cases will continue to increase significantly.

Also in the past two years, the Section has handled a significant number of investigations and cases under the Export Administration Act, the Arms Export Control Act and related statutes. The investigative agencies (Customs, Commerce and the FBI) are conducting approximately 75 investigations which have significant national security implications and are under the close supervisory jurisdiction of the Internal Security Section. Indictments have been returned in thirty-five cases. The remaining significant investigations and cases are being actively pursued by this program in cooperation with the U.S. Attorneys' Offices and the investigative agencies. With the increased and continuing emphasis placed on the enforcement of the export control laws by this Administration, it is anticipated that the number of cases reported for grand jury investigation and prosecution will continue at a high level.

In 1984 the Section successfully concluded the most extensive Foreign Agents Registration Act (FARA) grand jury investigation in its history, and the first primarily FARA indictment in over twenty years is expected shortly. Based on our experience with prior civil enforcement actions, the Section expects a sharp increase in all its FARA related work as a result. Also in 1984, the Section continued its civil litigation in the Irish Northern Aid Committee and Irish People, Inc. cases, enforcing a previously entered injunction in the former, and securing a finding of "agency" as alleged on remand in the latter case. Finally, in 1984 the Section continued to defend itself in two District court cases arising out of "Canadian films" controversy, *Keene v. Smith*, 569 F. Supp 1513 (E.D. Cal 1983), and *Block v. Smith*, 583 F. Supp 1288 (D.D.C. 1984). The Section assisted in the argument against the preliminary injunction and a pending motion for summary judgment in *Keene*, and the successful motion for summary judgment and the pending appeal in *Block*.

In 1984, additional registrations under the Act increased by 132, bringing the total of 3,636, of which 730 are active. Short-form registrations increased by 815, bringing the total to 17,221, of which 7,365 are active. This program conducts in-depth inspections of a broad spectrum of registrants to insure that they comply with the disclosure provisions of FARA. The program also conducted field and office conferences to assist registrants in meeting their reporting obligations under the Act. Further, the over 700 active registrants filed semi-annual reports on their finances and political activities, as well as other documents detailing any new contractual relationships and the identity of individuals engaged in activities on behalf of foreign principals. These documents, totaling approximately 3,000, were reviewed to insure that accurate and complete information is available for public review. Where clarification was deemed necessary, letters were sent to the registrants seeking appropriate amendments.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
General litigation and legal advice.	52	45	\$2,930	52	50	\$3,189	52	50	\$3,189	...	...	...

Long-Range Goal: To achieve directly, or through assistance to the U.S. Attorneys, the prompt disposition of all matters within the five major law enforcement responsibilities of the program, and to improve the efficiency and effectiveness of Federal, State and local criminal law enforcement efforts through the encouragement of improved intergovernmental coordination and cooperation.

Major Objectives:

- To develop and implement enforcement programs in certain key statutory areas where special requirements indicate the need for centralization.
- To develop and prosecute major cases under a vast range of statutes, when appropriate, due to recusal, lack of resources or pertinent expertise in U.S. Attorneys' offices.
- To defend civil suits seeking to obtain information on or to interfere with criminal justice activities and national security operations.
- To provide support to the U.S. Attorneys in the conduct of all other litigation within the program's subject areas.
- To coordinate and participate in crime resistance programs related to the program's statutory responsibilities, including the encouragement of voluntary involvement by corporations and individuals in the private sector in crime resistance efforts.
- To provide legal and policy advice to the Assistant Attorney General, Associate Attorney General, Deputy Attorney General, and Attorney General, as well as other components of the Department, on issues of major importance to the Department.

Base Program Description: The five major substantive areas addressed by the General Litigation and Legal Advice Section include:

- (1) crimes against government operations - attacks on designated Federal officials, including the President, Vice-President, Members of Congress, cabinet officers, Supreme Court Justices, candidates for Federal offices, foreign officials and official guests of the United States, depredations of mail and government property, counterfeiting, customs violations, obstruction of justice, perjury, escape and prison offenses, and Selective Service violations; (2) crimes against the public - aircraft and maritime piracy, kidnapping, extortion, bombing, bank robbery, theft from interstate shipment and interstate trafficking in stolen vehicles, securities and other property, illegal electronic surveillance, obscenity, copyright and firearms violations, crimes involving the recently enacted false identification and tampering with consumer products statutes, and crimes in the special jurisdiction of the United States; (3) regulatory enforcement - protection of safety, health and consumer interests in mining and other occupations, handling nuclear materials, marketing of agricultural products, and disposition of hazardous and toxic wastes; (4) special civil matters - defense of civil actions to obtain information on or to interfere with criminal justice and national security operations; and, (5) prison/parole matters - defense of suits challenging the legality of Federal sentences, probation and parole actions, conditions of confinement, prisoner transfer within, and from foreign custody to, the United States, and treatment of mentally incompetent prisoners. Approximately 75 percent of all Federal criminal statutes are assigned to the program, including many violent crimes and most Federal "street" crimes. In priority or sensitive criminal areas, the program serves as an enforcement entity, prosecuting and assisting in the prosecution of cases, and coordinating the various U.S. Attorneys' offices and investigative agencies. When a matter is likely to merit the prosecution by Section attorneys, the agencies immediately advise the Section of the initiation of an investigation, thus affording the opportunity for Section attorneys to provide guidance on crucial aspects of the investigation. In a more general way, the Section supports litigation by drafting or commenting on proposed legislation. Legislation can overcome the long-run effects of an adverse decision and usually

has an effect on both the scope and nature of future litigation. To conserve Federal litigation resources, Section attorneys also interact with the private sector, e.g., industry and labor, and Federal and non-Federal enforcement agencies, regarding adoption of crime resistance measures.

Accomplishments and Workload: The recent experience and projections for the future with regard to litigation for which the General Litigation and Legal Advice Section is directly responsible are summarized quantitatively in the following table:

Item	Estimates		
	1983	1984	1985
<u>Matters:</u>			
Pending, beginning of year.....	15	21	29
Opened.....	16	35	40
Closed.....	10	27	31
Pending, end of year.....	21	29	38
<u>Cases (Lead prosecutions):</u>			
Pending, beginning of year.....	22	14	17
Opened.....	16	20	23
Closed.....	24	17	23
Pending, end of year.....	14	17	19
<u>Disposition of defendants</u>			
<u>In cases litigated:</u>			
Convictions.....	29	47	53
Acquittals/dismissals.....	4	6	7
Other dispositions.....	9	1	2

Some of the specific recent activities of the General Litigation and Legal Advice Section that have contributed to the achievement of its major objectives include the following:

--Development of enforcement initiatives: In the past year, the Section has provided leadership in prosecutorial initiatives aimed at importers dumping goods on U.S. markets, at Puerto Rican terrorists operating on this island and at pornographers, who use the mail to distribute unsolicited sexually oriented material. On March 21, 1984, a Federal grand jury in Portland, Oregon, return a 32-count indictment charging Daewoo-America (a Korean trading company), Daewoo-Korea (its Korean parent company), and nine individuals with false statements, obstruction of justice and conspiracy in connection with the importation of steel products in the western United States. Section attorneys are involved in this and other similar cases at the request of the U.S. Customs Service in its major investigation involving the dumping of foreign-produced goods on the U.S. market at prices below that at which they could optimally be produced. This initiative is based not only on the magnitude of the cases involved, but also on the importance of discouraging foreign exporters from circumventing import price instructions and thereby damaging domestic industries and the employment of U.S. workers. A major investigative and prosecutorial effort has been initiated in Puerto Rico through the

assignment of Section attorneys to staff a Special Prosecution Task Force, operating in conjunction with the United States Attorney's office. The Task Force is working closely with the FBI to investigate terrorist activities engaged in by members of known Puerto Rican independence terrorist groups operating on the island. Another investigation into serious criminal activity by organized groups, comprised in part of Puerto Rican police officers, has resulted in the return in FY 1984 of eight indictments (including the first RICO indictment ever returned in Puerto Rico), involving 38 defendants, of whom 10 were active or former police officers. During FY 1984, 31 defendants were convicted of various crimes, including eight police officers. Also during 1984, the Section has continued to press forward on certain new initiatives in the obscenity area adopted last year. The Section contributed substantially to a report on obscenity enforcement for the Cabinet Council on Legal Policy. Versions of the Section's legislative proposals in the child pornography area were passed by both Houses and Congress and signed by the President on May 21, 1984. The Section has met with the Postal Service in order to develop more effective publicity for and enforcement of statutory provisions dealing with the mailing of unsolicited sexually oriented advertisements. The Section is also preparing draft legislation aimed at restricting such mailings. The Section seminar on obscenity law enforcement was held on May 16-17, 1984 with approximately 170 attendees from Federal and state law enforcement agencies.

--Litigation assistance to U.S. Attorneys. As the result of a four year effort of a joint General Litigation and Legal Advice Section/U.S. Attorney Task Force that also obtained the conviction of individuals responsible for murdering a Federal judge, Jimmy Chagra and James R. Kearns were sentenced to life imprisonment as a result of their guilty pleas to conspiracy to commit murder. Kearns was also sentenced to 10 years imprisonment for assaulting a Federal officer. The charges resulted from the November 21, 1978 machine gun assault on an Assistant United States Attorney. In the Middle District of Pennsylvania, culminating a three year joint investigation by the General Litigation and Legal Advice Section and the United States Attorney's office, Metropolitan Edison Company pled on February 29, 1984 to violations of the Atomic Energy Act resulting from the falsifying and concealing the results of an important test procedure and concealing the results of an important test procedure designed to reveal the existence of leaks in the reactor cooling system of the Three Mile Island nuclear power plant. Metropolitan Edison agreed to pay a \$45,000 fine which was the maximum permitted under the statute and contribute \$1 million to the Pennsylvania Emergency Management Agency to assist that agency in developing an emergency preparedness plan for the area around Three Mile Island. In another case handled jointly by a Section attorney and an Assistant United States Attorney (this time in the Eastern District of Kentucky), a defense attorney, was convicted of obstruction of justice for assisting the hiding of a prosecution witness in the criminal trial of his client.

--Defense of civil suits related to criminal justice activities. On September 18, 1984, the Section obtained a summary judgment from the District Court for Puerto Rico in a suit attempting to unblock a \$75,000 certificate of deposit held by a New York bank that was blocked by the U.S. Office of Foreign Assets Control pursuant to the Trading with the Enemy Act to prevent the proceeds from benefiting Cuba. In addition, General Litigation and Legal Advice Section attorneys successfully defended, in the Eastern District of Virginia, the decision of the Secretary of the Treasury to deny Secret Service protection to Lyndon H. Larouche, Jr., who had announced his candidacy for the 1984 nomination of the Democratic Party for the Office of President.

--Litigation support of U.S. Attorney prosecutions. The Section has been substantially involved in efforts to structure the Selective Service nonregistrant enforcement program. During 1984, the Selective Service delivered to the Section the names and identifying information concerning more than 200,000 possible nonregistrants who were identified primarily by matching Selective Service records against state departments of motor vehicle records. After random selection the program referred the names and identities of 506 nonregistrants to the FBI and the appropriate United States attorneys for investigation and prosecution. Section attorneys have handled several matters concerning selective prosecution, drafted court of appeals briefs and assisted in the Government's brief in the pending Supreme Court case of Wayte v. United States. General

Litigation and Legal Advice Section attorneys also assisted the Office of the United States Attorney for the Southern District of Iowa in obtaining an indictment on June 26, 1984, against Louis Kenneth Risken for obstruction of justice arising out of a plot to murder a grand jury witness.

--Crime resistance programs. In 1984, the General Litigation and Legal Advice Section co-hosted forums in San Diego, California, and Brownsville, Texas, on the recovery of stolen vehicles from Mexico under the new vehicle recovery treaty between Mexico and the United States. The forums were attended by over 150 persons, including state and local law enforcement officials. The Section also conducted a survey of the primary federal investigative agencies to determine whether the records retention period of six months for telephone toll is interfering with major criminal investigations. The results of the survey will substantiate a proposal to petition the Federal Communications Commission for a longer retention period. In another effort, the General Litigation and Legal Advice Section assisted the American Association of Motor Vehicle Administrators in using the recently enacted Federal False Identification statute to deter trafficking in state identification documents, particularly state driver licenses.

--Legal and policy advice. On March 19, 1984, the Attorney General's Guidelines on Immigration and Naturalization Service Undercover Operations became effective. The cooperative effort to formulate these Guidelines was spearheaded by the General Litigation and Legal Advice Section and INS to meet concerns within the Department that sensitive undercover operations should be carefully reviewed. It was thought wise to have the INS, like the Federal Bureau of Investigation, conduct undercover operations pursuant to guidance and direction from the Criminal Division. The Guidelines set up an approval mechanism through an Undercover Operations Review Committee which reviews INS's proposed sensitive undercover operations. In another matter, Section attorneys in conjunction with members of the Department's security staff, are currently implementing a program for the security of federal automated information systems. Discussions have been held with officials of the Office of Personnel Management, and it is anticipated that discussions will be held with selected Federal agencies to determine whether the program can be effected without an Executive Order. If necessary, a draft Executive Order will be prepared for consideration by appropriate officials. At the request of the Federal Bureau of Prisons, Section attorneys assisted in the formulation of new prison regulations relating to the establishment of a pilot religious diet program in the Federal prison system. The Section also developed guidelines on the use of firearms by Department of Agriculture enforcement personnel.

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
Office of special investigations....	47	\$3,072	47	\$3,088	47	\$3,088	...	...

Long Range-Goal: To denaturalize and deport individuals who concealed activity committed during World War II involving the persecution of others because of race, religion, national origin, or political opinion, in order to gain entrance to the United States.

#### Major Objectives:

To identify all alleged Nazi war criminals living in the United States.

To review and investigate systematically all relevant allegations received by the program.

To prosecute appropriate cases.

To develop and maintain working relationships with foreign governments having information relating to the activities of suspected Nazi war criminals.

**Base Program Description:** This program detects, identifies, investigates, and, where appropriate, takes legal action to denaturalize and/or deport any individual who: (1) assisted the Nazis by persecuting any person because of race, religion, national origin or political opinion, and (2) later was admitted as an alien into, or became a naturalized citizen of, the United States. The activities of this program include historical research, file review, investigations, witness interviews in the U.S. and abroad, litigation support, and denaturalization/deportation litigation before administrative bodies and U.S. courts. There are four major phases of work: (1) identification, consisting of matching a name of a United States resident to an allegation or suspicion of war crimes, and opening an Office of Special Investigation (OSI) file on that person; (2) investigation of suspects; (3) filing litigation; and, (4) appeals of judgments or other final orders. Four types of litigation action may be conducted: (1) if the subject is a naturalized citizen, a civil complaint may be filed in the U.S. District Court seeking a judgment of denaturalization; (2) for resident aliens (including denaturalized citizens), administrative proceedings are brought to seek their deportation; (3) criminal indictments may be pursued in cases which involve perjury (18 U.S.C. 1001) or other crimes within the statute of limitations; and (4) extradition. The litigation phase begins when the Complaint/Order to Show Cause/Indictment is filed; it ends with the judgment or the final order, and that is the basis for appeal.

**Accomplishments and Workload:** The recent experience and projections for the future of the Office of Special Investigations is summarized quantitatively in the following table:

Item	Estimates			
	1983	1984	1985	1986
<b>Investigative Matters:</b>				
Pending, beginning of year.....	224	278	308	348
Opened.....	127	91	100	50
Closed.....	73	61	60	80
Pending, end of year.....	278	308	348	318
<b>Cases:</b>				
Pending, beginning of year.....	27	29	31	41
Opened.....	8	7	15	15
Closed.....	6	5	5	8
Pending, end of year.....	29	31	41	48

Some of the specific recent accomplishments of the Office of Special Investigations that have contributed to the achievement of its major objectives include the following:

- Identification of war criminals. The Office of Special Investigation's Research and Development Project, initiated in late 1983, located 63 possible war criminals in the United States during 1984. Another 28 suspected war criminals were referred to OSI by other organizations and individuals. All are currently under investigation by OSI investigators and historians.
- Investigation of allegations. Seventy-six investigations were closed in FY 1984 because: (1) allegations could not be substantiated and/or corroborated, (2) suspect died, or (3) subject agreed to depart the United States to avoid prosecution. One such voluntary deportee was Arthur Rudolph, who was the Chief Operations Director for V-2 missile production at the Mittelwerk underground rocket factory in Germany during World War II, and in that capacity, participated in the use of slave labor.
- Denaturalization and deportation of war criminals. Seven new cases were filed in FY 84: two denaturalizations and five deportations. A third denaturalization case was filed in the first months of 1985. OSI deported four Nazi war criminals in the past 15 months: Rudolph, Trifa, Avdey and Hrusitzky. At this writing, Fedorenko is being detained by New York Immigration officials and awaiting deportation to the Soviet Union at any moment. OSI also succeeded in denaturalizing three war criminals. One, Hrusitzky, left before deportation proceedings, and deportation proceedings are now pending on the other two. Two extradition cases are currently pending as well.
- Solicitation of cooperation from foreign governments. After high level meetings between Departmental officials and officials for the Ministry of Justice of Yugoslavia, the Government of Yugoslavia filed a Request for Extradition of Artukovic. Artukovic has been charged in Yugoslavia with war crimes and murder stemming from his service as Minister of Interior and Minister of Justice of the Nazi puppet state. He is currently in custody in California, and he is now awaiting extradition.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY	Amount	Perm.	NY
Prosecution Support.....	120	105	\$5,278	120	115	\$5,772	120	115	\$5,772	...	...

Long-Range Goal: To provide the legal assistance and central coordination necessary to maximize the effectiveness of Federal criminal law enforcement.

Major Objectives:

To promote the negotiation of treaties with foreign governments that will improve the ability of the United States to extradite fugitives, to acquire evidence, to transfer prisoners, and to accomplish other purposes which will aid the criminal justice system in the United States.

To assist Federal and state authorities in obtaining fugitives, evidence and legal assistance from foreign governments.

- To represent, or supervise the legal representation of, foreign governments' extradition and evidence requests in U.S. courts.
- To monitor the execution of Prisoner Transfer treaties so as to minimize any delay in transferring prisoners eligible for transfer to their countries of nationality.
- To provide effective and reliable service to Federal prosecuting attorneys in the implementation of the statutes and regulations that affect them.
- To maintain a usable and used legal brief and policy memoranda bank and to integrate into the legal brief bank the briefs in opposition to petitions for writs of certiorari and the Solicitor General appeal memoranda that are generated by the Division annually.
- To maintain an up-to-date U.S. Attorneys' Manual and have Criminal Division updates prepared on a regular basis so that all portions of the Division's contribution to the Manual will remain current and informative.
- To coordinate responses to (Freedom of Information Act and Privacy Act) requests pertaining to the Criminal Division.
- To review requests for authorization of electronic surveillance and recommend authorization or disapproval of requests pursuant to 18 U.S.C. 2518 in an expeditious manner.
- To perform the appropriate review of witness relocation requests and deal with the myriad matters associated with the Witness Security Program.
- To litigate and assist U.S. Attorneys' Offices in litigating forfeiture cases where:
  - (a) major cases arise in districts in which the U.S. Attorney's Office lacks the expertise or personnel to conduct the cases effectively.
  - (b) backlogs of forfeiture cases arise because of other demands on U.S. Attorneys' Offices.
- To advise and train investigative agents and Assistant U.S. Attorneys to make greater use of forfeiture provisions and better manage seized and forfeited assets.
- To process and resolve petitions for remission and mitigation in judicial forfeiture cases.
- To support directly the U.S. Marshals Service and investigative agencies in improving the management of seized and forfeited property.
- To review all settlements in forfeiture cases in which the difference between the gross amount of the original forfeiture claim exceeds \$50,000 but is less than \$750,000.
- To encourage coordination with state and local authorities on forfeiture matters.
- To provide legal advice and assistance to United States Attorney Offices regarding the collection of criminal fines and appearance bond forfeiture judgments.



To establish, coordinate, and maintain an "accounts receivable" system for criminal fines and appearance bond forfeiture judgments obtained by the Criminal Division.

**Base Program Description:** This program seeks, through the Division's Office of International Affairs (OIA), to centralize, coordinate and execute the Department's responsibilities concerning international legal matters related to criminal law enforcement in the areas of extradition, international legal assistance and prisoner transfers. The handling of treaty negotiations and implementation, international legal assistance and prisoner transfers requires effective liaison between OIA and numerous foreign and domestic entities, including the Department of State, foreign governments and INTERPOL. To assure that extradition requests submitted by the United States meet the requirements of the relevant extradition treaties, OIA advises federal and state prosecutors on the preparation of all United States extradition requests, and screens such requests before submission. To promote the reciprocal representation by foreign governments of United States extradition requests, OIA either directly represents, or supervises the representation of, foreign extradition requests before United States courts. Included among cases handled by OIA are some of the most important narcotics trafficking, fraud, and violent crime cases prosecuted in this country and abroad. Similarly, to assure that requests submitted by the United States seeking evidence from foreign countries under mutual assistance treaties in criminal matters meet the requirements of the applicable treaty, OIA, acting as the United States Central Authority under the treaties, advises federal and state prosecutors on the preparation of all such requests, and screens or redrafts them prior to transmittal. When, because of the lack of a mutual assistance treaty, such requests must be made by letters rogatory, OIA performs essentially the same role in processing them as well. To promote the reciprocal representation by foreign governments of United States evidence assistance requests, OIA either directly represents, or supervises the representation of, foreign evidence assistance requests before United States courts. As with extradition, such evidence requests are generally related to some of the most important investigations and prosecutions in this country, e.g., investigations of the International Laundering of vast profits of major narcotics trafficking organizations. OIA has also been instrumental in obtaining the execution of search warrants in foreign countries in connection with the unlawful export of advanced technology goods, such as computers which could be used in weapons guidance systems. This program also is responsible for the implementation of the prisoner transfer treaties to which the United States is party. During 1985 and 1986, new prisoner transfer treaties are expected to enter into force with approximately seventeen countries, thereby quadrupling the number of such treaties in force and greatly increasing the problems attendant to their smooth implementation.

Through the Office of Enforcement Operations (OEO), the Criminal Division regulates the effective and appropriate use of sensitive investigative techniques such as wiretaps, consensual monitoring and witness relocations through the application of uniform procedural guidelines by specially trained attorneys and paralegals. These individuals maintain effective liaison with the U.S. Attorneys' Offices, Organized Crime Strike Forces, U.S. Marshals Service, the Federal Prison System, the Federal Bureau of Investigation, and all other applicable Federal, state and local investigative agencies. The Office of Enforcement Operations possesses full responsibility to review and approve or disapprove requests from U.S. Attorneys, investigative agencies, and Congressional committees to place individuals believed to be endangered by organized crime figures in the Witness Security Program. It is responsible for coordination among government prosecutors, investigative agencies, and U.S. Marshals Service personnel, the conduct of cases requiring witness protection, and participation in litigation arising out of the program, in cases where the United States is named as a party by virtue of any action taken or not taken with respect to the program. (Title V of Public Law 91-452, codified as a footnote preceding Title 18, United States Code, Section 3481).

The Office of Enforcement Operations is responsible for the review, adjudication, and coordination of all applications for electronic surveillance under Title III of P.L. 90-351, codified in Title 18, United States Code, Section 2510-2520, and is solely responsible for the final recommendation to be made directly to the Assistant Attorney General. It participates in and, as required, conducts litigation arising

from the grant of an application for electronic surveillance, and is responsible for performing ongoing analysis, review, and in-depth evaluations of the implementation of 18 U.S.C. 2516. The Office also receives and processes all requests received from U.S. Attorney Offices and Organized Crime Strike Forces for witness immunity pursuant to 18 U.S.C. 6001 et seq.; OEO makes the final recommendation to the Assistant Attorney General for approval or rejection of such requests. In addition, OEO provides the various components of the Division and the U.S. Attorneys' Offices with a wide range of investigative assistance and prosecutorial support, including the following: processing requests for witness subpoenas in the federal judicial system; processing requests for consensual surveillance in selected cases in sensitive areas; processing requests for disclosure of tax returns, taxpayer information and return information pursuant to the Tax Disclosure Act of 1976, as amended; processing Freedom of Information Act and Privacy Act requests; responding to allegations of illegal electronic surveillance; processing requests for authorization to subpoena a member of the news media; processing requests for authorization to seek closure of any part of a criminal proceeding; coordinating responses to subpoenas and court orders directed to the Department; processing requests for permission to seek issuance of a search warrant for documentary material in the possession of a disinterested third party; updating the Criminal Division's portion of the United States Attorneys' Manual; maintaining the legislative files and records of the Division; maintaining the Legal Reference Unit, a legal brief and policy memorandum bank for use by Division attorneys and paralegals; responding to citizen mail on criminal matters by the Correspondence Unit; and preparing the Division's monthly and annual reports to the Attorney General. The provision to these services is accomplished through close liaison between OEO and litigating components of the Criminal Division, and the United States Attorneys' Offices.

The final aspect of this program is provided by the Asset Forfeiture Office created in June 1983 through a reorganization of the Criminal Division. The responsibilities of this Office include the conduct of civil and criminal asset forfeiture litigation, the development of policies which incorporate asset forfeiture into an overall law enforcement program and the improvement of existing practices regarding the management of seized and forfeited assets. Forfeitures are an important part of law enforcement, because forfeitures allow the government to take property away from criminals which, in turn, deters crime and promotes justice. Forfeitures deter crime because the government can take away the property that lawbreakers use to commit crimes, e.g., the airplanes and boats they use to smuggle narcotics into the country and the cash they use to buy drugs for resale. By removing this working capital from criminals, forfeitures make it more difficult for lawbreakers to operate. By seizing the fruits of crime, e.g., the stocks and bonds purchased with money traceable to drug sales, or a business acquired by a pattern of racketeering activity, forfeitures further deter lawbreaking by taking the profit out of crime. Forfeiting criminal profits also promotes justice, because criminals should not grow rich from their violations. Fines are also an important part of the penalty structure of federal criminal law. The imposition of a fine, however, serves no punitive or deterrent purpose if it goes unpaid. The Collection Unit within the Asset Forfeiture Office, therefore, assists the various components of the Division and the U.S. Attorneys' Offices by overseeing and assisting in the collection of criminal fines, criminal penalties, appearance bond forfeiture judgments, and criminal court costs.

Accomplishments and Workload: A quantitative summary of the prosecution support workload is presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
<u>Office of International Affairs</u>				
Extradition				
Foreign requests to the U.S.	125	135	150	165
U.S. Federal requests	135	200	225	250

U.S. State Requests.....	100	110	135	150
Total fugitives requested.....	360	435	510	565
International Assistance				
in Criminal Matters.....				
United States requests.....	200	225	260	300
Foreign requests.....	155	180	200	225
Mutual assistance treaties				
in force.....	3	4	8	10
Prisoner Transfers				
Prisoners transferred to U.S.....	51	100	250	250
Prisoners transferred to				
foreign countries.....	61	75	100	100
Prisoner transfer treaties				
in force.....	6	6	15	23
Office of Enforcement Operations				
Witness Immunities processed.....	4,226	4,500	5,000	5,500
Electronic surveillance checks				
with investigative agencies.....	78	85	90	95
Tax disclosure requests				
processed.....	148	150	155	155
Correspondence letters				
processed.....	15,314	37,500 1/	16,000	17,000
28 C.F.R. 16.21 subpoenas				
processed.....	825	850	875	900
FOI/PA requests				
received.....	1,250	1,384	1,425	1,475
Memoranda processed for brief				
bank inclusion.....	2,229	2,412	2,450	2,500
Requests to subpoena,				
interrogate or arrest members				
of the news media processed.....	21	25	30	35
Requests for permission to				
close all or part of a judicial proceeding processed.....	14	20	25	30
New Witness Security Program				
Requests.....	344	360	360	360

1/ This total includes 15,000 anti-pornography post cards. Hopefully this campaign was a one-time event which is not expected to be repeated.

Matters Concerning				
Witnesses from Prior Years.....	30	30	30	30
Prisoner-Witness Matters.....	240	260	260	260
Title III Requests.....	384	450	500	500
Requests for Use of Hypnosis.....	44	45	45	45
Requests for Use of FBI				
Equipment.....	1	3	3	3
Statistical Reports				
(Title III/Consensuals).....	69	69	69	69
Statistical Reports				
(Witness Security Program).....	71	71	71	71
Witnesses Accepted Into Program.....	300	294	325	325
Emergency KSP Requests Authorized.....	9	10	10	10
Wiretaps Approved.....	359	360	360	360
Asset Forfeiture Office				
Major Cases in which the				
Office Has Substantial				
Involvement:				
Pending, beginning of year.....	5	2	7	60
Opened.....	1	10	78	50
Closed.....	4	5	25	50
Pending, end of year.....	2	7	60	60
Major Ongoing Startup				
and Support Projects				
(a) Forfeiture.....	10	10	6	7
(b) Collection.....	...	8	9	11
Responses to Inquiries				
from the Field				
(a) Forfeiture.....	578	2,000	2,500	2,500
(b) Collections.....	...	1,500	1,500	1,500

Remission and Mitigation Petitions Reviewed.....	135	480	500	520
Offers in Compromise Reviewed.....	...	25	30	36

During 1984, the Office of International Affairs achieved several major successes including the following:

--Extradition of foreign nationals to the United States. In the Spring of 1984, after opening a major offensive against major drug traffickers in Columbia, the Minister of Justice of Columbia was assassinated. Shortly thereafter, in a major policy reversal, the President of Columbia announced publicly that he would henceforth approve the extradition of Columbian nationals to face criminal charges in other countries. Despite a provision in our extradition treaty with Columbia, which requires the extradition of nationals of each country to the other in certain cases, Columbia had theretofore refused to take action on some twenty pending requests to return it nationals to the U.S. to face narcotics charges. As a result of this major reversal of policy, the U.S., during the spring and summer of 1984, presented more than seventy new requests to Columbia for extradition involving many major Columbian narcotics kingpins. The Columbian government honored the requests by arresting at least twenty-one fugitives for extradition to the United States. The Supreme Court of Columbia has already ruled favorably on eight of the extradition requests and is likely to rule favorably on the remainder. The extradition of these major fugitives will represent a significant victory in the war on drugs. It has also set a new standard of cooperative international effort in combating drug trafficking and established a valuable precedent throughout all of Latin America in favor of the policy of extraditing nationals. On September 28, 1984, Gaetano Badalamenti and Pietro Alfano were found extraditable to the U.S., specifically the Southern District of New York for C.C.R. and related charges, from Spain. Badalamenti headed a Sicilian organized crime organization which was responsible for supplying much of the heroin to the U.S. market the past 10 years, and he had been a fugitive from justice for approximately 20 years. Prior to this case, extradition experience with Spain had been limited with mixed results. Informed authorities in Spain felt that the extradition would be nearly impossible due to the complexity of the charges, the fact that Badalamenti had never been within the "territory" of the U.S., and because Italy had also made a prior request for extradition based upon homicide charges, and Badalamenti was an Italian national. After lengthy consultations with the Spanish Justice Ministry and court personnel extensive documentation was submitted explaining the crimes and their severity. The U.S. extradition request prevailed over the Italian request. Additionally, the process opened up new lines of communication between the two governments in the area of law enforcement.

--International cooperation. Prior to his conviction in the Southern District of New York on fraud charges arising out of the collapse of the Franklin National Bank, Michele Sindona, a prominent Italian banker and financier, was found extraditable to Italy to face trial on bankruptcy fraud charges arising out of the collapse of banks there. Since Sindona was serving a 25 year sentence imposed in the Franklin Bank case, it was not possible to surrender him for extradition under the 1973 extradition treaty. After the new treaty was signed, new extradition proceedings began in the Eastern District of New York based on Italian charges of extortion and murder. Sindona did not seek a review of the new extradition finding, and on September 24, 1984, the day the new U.S. Italian extradition treaty entered into force, he was transferred to Italy pursuant to a treaty provision for which allows temporary surrender of those serving prison terms in the requested state. Sindona, who will become eligible for parole in the 1990's, is receiving credit for his U.S. sentence while in the Italian custody. He will be returned to the United States, if time remains on his sentence, after all trials and appeals are completed in Italy. On July 26, 1984 the United States and the United Kingdom exchanged diplomatic correspondence establishing an Agreement on access to the documentary information in the Cayman Islands needed in narcotics investigations and proceedings in the country. This Agreement is a major breakthrough in our efforts to force Caribbean bank secrecy

jurisdictions to provide us with access to the records of "offshore" transactions in which the proceeds of drug smuggling and distribution are "laundered." The Agreement is the result of nearly seven months of intense negotiation between the Cayman Island Government, the British Government (the Caymans are a British colony), and the United States Departments of Justice and State. The Agreement is to remain in force for fifteen months. A key provision in the Agreement obliges the Cayman authorities to begin good faith negotiation with us of a formal mutual assistance treaty, which would cover more crimes than solely narcotics related offenses. These negotiations are scheduled to begin in May, 1985.

During 1984, the Office of Enforcement Operations continued to sustain a high level of performance:

In addition to the ever present daily requests for authorization for witness protection, use of hypnosis, electronic surveillance, and consensual monitoring, the Office of Enforcement Operations has major areas of responsibility where performance cannot be meaningfully quantified. These responsibilities include continuously analyzing and evaluating the implementation of the sensitive techniques supervised, reviewing and suggesting proposed changes in legislation relating to the statutes for which the Office has responsibility, interpreting existing statutes (relating to these sensitive techniques) where established precedents do not exist, providing input to the development and refinement of prosecutorial enforcement strategies relating to these techniques, and generally exercising careful discretion in approving and disapproving the use of these sensitive techniques. During 1984, the highest number of wiretap requests, some 462 original and extension authorizations, were processed to approval since the statute was enacted in 1968. A number of these requests involved some of the most significant investigations, such as United States v. Badalamenti in the Southern District of New York. All requests were processed quickly, and no authorizations were rejected by the court. Also in 1984, the Office of Enforcement Operations coordinated massive revision of Title 9 of United States Attorneys' Manual to ensure that all sections were up-to-date and assisted in providing prompt advice to USA's of new legislation and cases involving Federal Rules of Evidence and Procedure through the United States Attorneys' Bulletin.

During 1984, the Asset Forfeiture Office handled some 450 petitions for remission and mitigation involving large sums of cash, various kinds of conveyances and realty. The Office was able to reduce the processing time for these petitions from 3 months to 4-5 weeks and thereby increase office efficiency. The Office continued to educate Assistant United States Attorneys and agents of various federal and state agencies by providing speakers and lecturers in four forfeiture conferences. It has likewise reviewed and disseminated throughout the Department a manual on forfeiture law. This Office worked with the representatives of the various state legislatures in developing a model state asset forfeiture bill. This model was published and distributed to all of the nation's 7,000 state legislatures by the American Legislative Exchange Council and the Council of State Governments. In keeping with the Administration's stepped up effort against drug trafficking and in line with using forfeiture as tool to dismantle illicit enterprises, the office increased its support of United States Attorneys in their prosecution of complex civil and criminal forfeiture cases, such as in United States v. D.K.G. Apaloozoo, Inc., 8-84-43-CA (Eastern District of Texas). In this civil action, the government is seeking to recover over \$14 million of property, including farm land and expensive horses, as well as precious metal holdings. Likewise, two attorneys were detailed for significant periods in supporting the United States Attorney's Office in Miami with their forfeiture case load. Such activity substantially assisted that busy district in this forfeiture effort against drug traffickers. In addition, United States Attorney Office were assisted, in the appellate area by the preparation of four briefs. In United States v. Andres F. Rodriguez, Case No. 84-521 (11th Cir.), novel issues were presented, including whether the cash proceeds of racketeering must be traced to specific assets owned by the defendant at the time of the forfeiture verdict. Also presented was whether a district court has authority to order post-forfeiture financial disclosures from a convicted defendant, and, if so, whether such an order would violate a defendant's Fifth Amendment rights. Finally, the Eleventh Circuit was asked to decide for the first time whether a group of corporations may comprise the enterprises under the RICO statute. Consistent with the Administration's accelerated effort to collect debts and in line with the Attorney General's focus on improving criminal fine collections, the office became directly involved in assisting United States Attorney Offices with their complex criminal fine collection cases. In United States v. Barnes, Civ. No. 81-70347, the Criminal Fine Unit assisted the United States Attorney's Office for Eastern Michigan in more than three years

of complicated discovery. This resulted in the collection of over \$600,000 which comprised the fine and also tax penalties. There was also substantial assistance furnished to the office of the U.S. Attorney in United States v. Potomac News, Cr. No. 1351-70, where the office participated directly in a criminal contempt prosecution in the District of Columbia. In that case, an attorney was charged with a scheme to defraud the court and the government out of collecting a \$30,000 fine. Also, in United States v. Elliott, Cr. 81-127-01-D, the office traced drug proceeds from the sale of property in the District of Columbia to a certificate of deposit in a local bank, and thus assisted the United States Attorney for the Middle District of North Carolina in collecting \$50,000 of an outstanding fine. These efforts were prior to the recent passage of the Criminal Fine Enforcement Act of 1984 which provides even greater tools for fine enforcement. Finally, the Office established a system of internal controls for legal process debts generated by the Criminal Division, which is now functioning and in support of the focus on debt collection.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm.	Pos.	WY	Amount	Perm.	Pos.	WY	Amount	Perm.	Pos.	WY
Organized Crime											
drug enforcement....	6	6	6	\$595	6	6	6	\$595	...	...	...

Long-Range Goal: To support the Drug Task Forces in investigating and prosecuting violations of Federal criminal laws that prohibit the importation, distribution, sale and use of harmful drugs.

#### Major Objectives:

To furnish assistance requested by Drug Task Force prosecutors to the full extent possible within the terms of applicable statutes, Departmental policies and procedures, caselaw, international conventions and bilateral treaties.

To provide regular communications and instruction to Drug Task Force prosecutors so as to improve their efficiency and their effectiveness.

To participate in the litigation of certain Drug Task Force cases for which Division personnel have developed special expertise.

Base Program Description: The Administration's law enforcement initiative against organized drug traffickers has increased the demands on the Criminal Division to provide certain types of prosecutorial assistance and to participate directly in the development of particular cases. For example, many Drug Task Force investigations depend upon electronic surveillance to obtain evidence on the activities of wrongdoers. By law (28 USC 2516), all electronic surveillance must be authorized by the Attorney General or a designated Assistant Attorney General. Before authorization, each application is reviewed by Division personnel, and a recommendation is made to the Assistant Attorney General. Then, following authorization of either a wiretap or the wireless interception of communication, reports must be collected and reviewed on the fruits of the surveillance. In addition to employing electronic surveillance techniques, many Drug Task Force prosecutions rely on witnesses whose personal safety is endangered by criminal elements. A prosecutor seeking to arrange for the protection of a witness -- e.g., by providing guards, by relocating the witness out of the danger area, by securing a new identity for the witness, etc -- must submit a request to the Division for review as to the qualification of the witness for the program and a determination as to the level of protection to be afforded to the witness.

The Division has also experienced an increase in the number of extradition requests and requests for mutual legal assistance to and from foreign countries as a result of the Drug Task Force investigations. The initiative against drug traffickers has also spurred interest in the increased use of asset forfeiture provisions of existing statutes against drug dealers. Denying criminals the means of production can sometimes be a more effective deterrent to crime than punishment by imprisonment or fine. Finally, the Division often must lend direct assistance to the development of major investigations involving peculiar legal theories or the organization of extensive evidence in a manner designed by the Division, such as in financial investigations of trafficking organizations as demonstrated by the Operation Greenback Initiatives.

Accomplishments and Workload: Requests for assistance in formally designated Drug Task Force cases began to reach the Division in April 1983 and quantitative information on the activities of the Division during the second half of 1983 are presented in the Workload and Performance Summary. By virtue of reimbursable funding from the ODE appropriation in 1983, attorneys were assigned to participate in the development of three Drug Task Force cases, and litigation assistance was provided to Drug Task Force prosecutors so that electronic surveillance could proceed, witnesses were protected from physical danger, fugitives extradited, and evidence obtained from foreign jurisdictions. The requirements of the Drug Task Forces during 1984 were accommodated through appropriated funds assigned to existing decision units. Directly appropriated funding will become available beginning in 1985.

Item	1983		1984		Estimates	
	1983	1984	1985	1986	1985	1986
Witness immunities processed.....	...	44	230	230	...	...
Electronic surveillance applications reviewed.....	...	33	170	200	...	...
Witness protection measures authorized.....	...	17	70	75	...	...
Extradition requests transmitted.....	...	6	50	50	...	...
Judicial assistance requests submitted.....	...	19	50	50	...	...
Classified Information Procedures Act (CIPA) cases reviewed.....	...	...	...	...	...	...
DTF cases receiving direct assistance from Division personnel.....	...	3	3	3	...	...

#### 1985 Appropriation

Management and Administration.....	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY	Pos.	WY	Pos.	WY	Pos.	WY
	89	91	89	91	89	91	...	...
		\$5,158		\$5,190		\$4,572		-\$618

Long-Range Goal: To guide the administration of federal criminal justice in an effective, fair and consistent manner.

#### Major Objectives:

To supervise the development and implementation of Department policy so as to assure an effective, fair and consistent administration of Federal criminal laws.



To establish priorities and to provide general supervision of national enforcement of Federal laws.

To develop and implement policies relating to the efficient administration of the Division.

To provide administrative services necessary to the operations of the Division.

To analyze all legislative proposals developed within the Congress and the Administration which affect either the substance or procedure of the Federal criminal justice system, and to furnish advice, as appropriate, on the probable effect of such proposals on Federal law enforcement.

To analyze policy issues relating to enforcement programs that the Criminal Division oversees in order to identify and resolve problems in the operations of those programs.

To analyze issues relating to the Division's management systems, policies, and procedures and develop needed improvements.

To assist in coordinating Division policies, enforcement programs, and the exchange of information with other components of the law enforcement system, including operating agencies and research institutions.

Base Program Description: The Office of the Assistant Attorney General carries out its policy-making, supervisory and liaison functions through the Assistant Attorney General, four Deputy Assistant Attorneys General, a Special Counsel, four Senior Counsel and support staff. Included in the Office of the Assistant Attorney General is the Office of Law Enforcement Coordination which is assigned responsibility for staffing the Executive Working Group for Federal-State-Local Prosecutorial Relations, for reviewing Federal district law enforcement plans, for managing the Division's program to abolish concurrent jurisdiction enforcement lapses, for supporting the Division's Crime Prevention Committee, for overseeing the Division's involvement in regional law enforcement coordinating committees, and for staffing other intergovernmental law enforcement management initiatives which were previously fragmented among several Division offices.

Administrative services are provided by the Office of Administration. Six operational units work closely with other organizational entities of the Criminal Division, the Department and other Federal agencies, to ensure that the Division's administrative services are provided in an efficient, timely, and cost-effective manner: the Office of the Director; the Personnel Unit; the Fiscal Unit; the Mail, Records and File Unit; the Procurement, Space and Security Unit; and, the Management Information Systems staff. This last unit was established in 1984 to develop and install top priority automated data processing systems for caseload management information and correspondence tracking, and to provide selected ADP applications in support of investigations and litigation.

The Office of Legislation draws upon expertise spanning the breadth of criminal law, as well as familiarity with congressional organization, rules, and procedures to conduct the Division's relationship with the legislative branch. Close liaison is maintained with, among others, Members of Congress and their personal and committee staffs, the Department's Office of Legislative and Intergovernmental Affairs, the Office of the Associate Attorney General, officials of the Department and the Division, the Attorney General's Advisory Committee of U.S. Attorneys and representatives of Federal investigative agencies.

The Office of Policy and Management Analysis provides the Division with the analytical capabilities needed to perform program development, policy analysis, and management improvement functions. The Office advises the Assistant Attorney General on developing priorities for the Division, the

Department, and Federal law enforcement generally. Most of the Office's projects are joint efforts with personnel from other units, such as the Division's other sections and offices, the Department's other legal divisions, the United States Attorneys, the investigative agencies, and the Inspectors General. The Office's professional staff includes analysts with expertise in public policy, business investigation, criminology, economics, organizational behavior, program evaluation, information systems, statistical methods, and related areas. Each staff member is assigned to work primarily in one of the following areas: organized crime, fraud and corruption, law enforcement coordination, or general management improvement.

**Accomplishments and Workload:** The Office of the Assistant Attorney General continues to provide the Federal criminal justice system with national leadership, centralized coordination and effective direction. The role of the Assistant Attorney General manifests itself mainly in communications imparted to other governmental entities and, by extension, to the public. The legislative proposals transmitted to the Congress represent the best judgment of the Criminal Division as to the changes which are needed to improve the criminal justice system. The arguments formulated for presentation to the Supreme Court and courts of appeal reflect the considered experience of the Division as to the constitutional and statutory interpretations which will best support the enforcement of Federal laws in the long run. And finally, communications delivered to other law enforcement executives, Federal and non-Federal, in speeches, meetings, and correspondence serve to focus attention on the most pressing problems facing the criminal justice system and the means available to law enforcement executives to address those problems.

Within the last year the Office of Administration has initiated several management improvements that will facilitate the organizational functions of the Criminal Division: the Management Information Staff has been established and employees selected; an IBM System 38 minicomputer to process caseload management information and correspondence tracking has been procured (at one-half the cost of new equipment) and installed in a secure room; programs to microfilm closed casefile indices and to microfiche closed Nazi war criminal case files have been initiated; microfilming closed witness security records and increasing correspondence was studied and a solution designed for the Office of Enforcement Operations; and modifications to the manner in which obligation data is recorded in the Financial Management Information System (FMIS) have been implemented. In the last ten months the Division has acquired ten microcomputers for use in offices with immediate database needs prior to the full development and implementation of the case tracking system on the IBM System 38. Those microcomputers will be linked to the System 38 minicomputer. In addition, they will enable litigation managers to access, by means of telecommunications, the JURIS automated legal research database (the Division now has only 2 JURIS terminals.) The microcomputers will also provide for the operation of spreadsheet and small database management programs by using commercial software. In order to avoid the inefficient, piecemeal acquisition of the latest fashion in technology, the Office of Administration has adopted a strategic plan to design and install an integrated scheme of automated office equipment. In order to acquire equipment that will perform in accordance with the requirements of the Criminal Division a contractor will be engaged in 1985 to conduct an assessment of the Division's requirements and to formulate technical specifications so that suppliers may bid on a contract to furnish equipment to the Division.

The Office of Legislative Affairs is able to count a major success in 1984 because its work to secure passage of the Administration's Comprehensive Crime Control Bill finally reached fruition with the signing into law of P.L. 98-473 by the President on October 12, 1984. This bill, which represents the most sweeping changes in the criminal justice system ever enacted at one time, was prepared largely in the Office in 1983. During 1983, the Office drafted such key parts of the bill as bail and forfeiture reform, insanity defense revision, and three extensive chapters on violent crimes, nonviolent offenses and criminal procedure; prepared voluminous testimony on these matters, and wrote the portions of the Senate report concerning them. In 1984 the Office prepared extensive written materials such as floor statements and letters in opposition to hostile amendments on these and other provisions in the bill for the use of key Senators and continued its almost daily liaison with Senate staff. As a result, the most important elements of P.L. 98-473 were passed by the Senate on February 2, 1984 by a vote of 91-1 and the Office was then able to work for House passage by drafting numerous letters, memoranda, and floor statements for the use of interested House members.

The Office played a central role, in conjunction with the General Litigation and Legal Advice Section, in drafting a package of five bills concerning terrorism. Mentioned in the President's 1984 State of the Union Message, the package was submitted as a Presidential Initiative. The Office also drafted the Department's proposed legislation. The Office contributed to the development of other legislation, recently enacted as H.R. 3635, to strengthen the child pornography provisions in Federal law. These efforts have been in response to the Supreme Court's decision regarding the First Amendment issues surrounding child pornography in *New York v. Ferber*, 102 S. Ct. 3348. In order to promote the implementation of the Victims and Witnesses Protection Act, the Office of Legislation drafted guidelines describing the rights of victims of and witnesses to Federal crimes and the responsibilities of Federal investigators and prosecutors in their dealings with victims and witnesses. The guidelines drafted by the Office were circulated throughout the Department and were issued as an Attorney General's order. Finally, the Office has prepared testimony and reports on several bills concerning credit card fraud, counterfeiting and computer crime, and represented the Criminal Division on an interdepartmental task force developing a legislative proposal concerning computer crime, an Administration priority and the subject of considerable media interest.

By way of illustrating the manner in which it meets its objective of analyzing law enforcement issues and programs, the Office of Policy and Management Analysis (OPMA) recently completed a four-part case monitoring system for the Organized Crime Drug Enforcement Task Forces, which are the centerpiece of the Administration's initiative against high-level drug trafficking. This monitoring system is based upon an OPMA-coordinated interagency review of alternative systems for monitoring and evaluating the program. Another study examined the Navy's claim process and its impact on the development of successful fraud prosecutions. Finally, OPMA provided analytic support to the Associate Attorney General and the new Asset Forfeiture Office in the Criminal Division to resolve issues raised in a study of asset seizure and forfeiture operations, previously conducted by OPMA with the Justice Management Division and the Executive Office for U.S. Attorneys. Recent efforts by OPMA met its evaluation objectives by preparing a comprehensive report on an Organized Crime Strike Force and by conducting on-site reviews (as part of a team assembled by the Office of the Associate Attorney General) of Organized Crime Drug Enforcement Task Forces in preparation for the Annual Report to the President and Congress. The Office assisted the Office of Enforcement Operations in evaluating its management information system needs for the Witness Security Program, and designed an information system for the Asset Forfeiture Office's handling of petitions in re-mission, assisted the FBI in devising a net equity worksheet, and developed reporting formats for Department agencies to use for monitoring asset seizures and forfeitures. As an example of its progress toward meeting its coordination objectives, OPMA assisted in the Division's review of law enforcement plans submitted by the Law Enforcement Coordinating Committees across the country. Many of the plans reflected the planning concepts suggested to the U.S. Attorneys by OPMA in earlier guidance memoranda. At the request of the Associate Attorney General, OPMA initiated a review of the major programs and issues raised in the plans. As part of its ongoing efforts in this area, OPMA also reviewed draft GAO reports, pieces of proposed legislation, research proposals, and draft research reports (at the request of the National Institute of Justice, the Bureau of Justice Statistics, the Federal Justice Research Program, and others). Staff also represented the Division on advisory boards set up to solicit or evaluate criminal justice research projects, prepared an agenda of research topics for the Bureau of Justice Statistics, and presented a paper at an international research conference.

**Program Changes:** A decrease of \$618,000 is slated for this program for 1986. The decrease will be accomplished by removing from this program the last remnant of direct involvement in litigation, and by improving the productivity of the management and administration staff in two areas. Since the establishment of this program as a discrete element of the Criminal Division budget, the resources assigned to the program have included funding for four senior litigation counsel, and associated support staff, who are assigned to the Office of the Assistant Attorney General. These individuals have been variously assigned to manage major litigation projects, such as the defense of the detention program for illegal

Cuban entrants, or to conduct, on an ad hoc basis, specific instances of sensitive and difficult litigation. The resources for these functions need not be assigned to the Management and Administration program, and so for 1985, the functions will be absorbed by the other operating components of the Division. In addition, productivity improvements will enable the Office of Policy and Management Analysis to perform all of its analytic functions within current staffing levels. Also, the former card file system used by the Division mailroom to keep track of correspondence has been replaced by a computerized record keeping system. Correspondence records now are much easier to record on the new system and even easier to retrieve. With these productivity improvements, the Office of Administration will be able to perform all of the required functions of the mail and file unit.

Criminal Division  
Salaries and expenses, General Level Activities

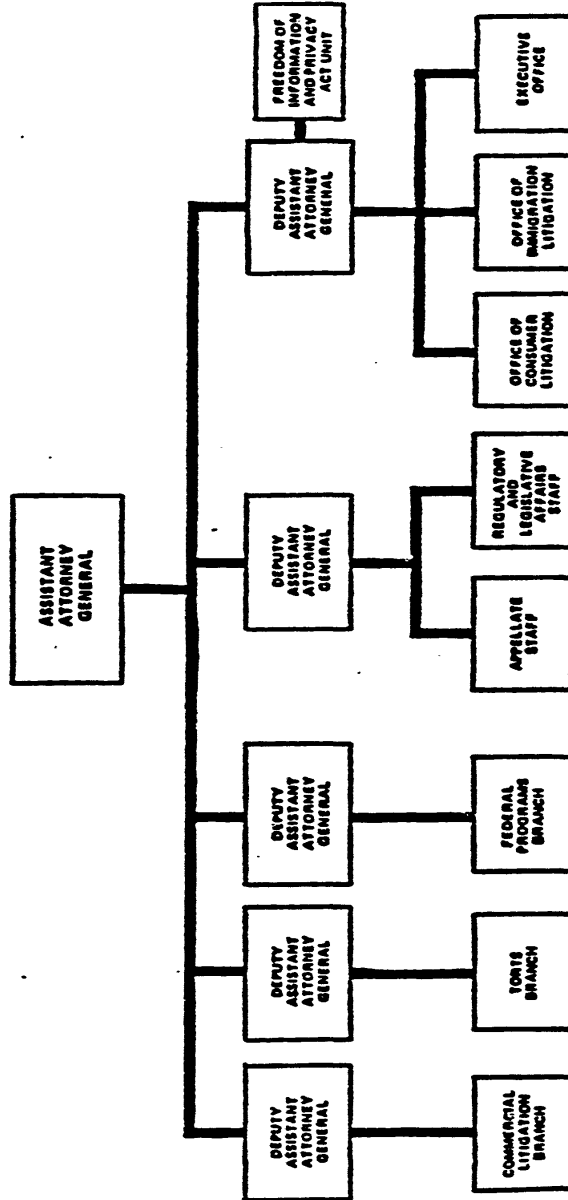
Priority Rankings

<u>Program</u>	<u>Base Program</u>	<u>Ranking</u>
Organized Crime Prosecution		1
Organized Crime Drug Enforcement		2
Narcotic & Dangerous Drug Prosecution		3
Fraud		4
Public Integrity (Corruption)		5
Internal Security		6
General Litigation & Legal Advice		7
Office of Special Investigations		8
Federal Appellate Activity		9
Prosecution Support		10
Management and Administration		11

Criminal Division  
Salaries and expenses, General Legal Activities  
Detail of Permanent Positions by Category  
Fiscal Years 1983 - 1985

Item	1984 Authorized	1985		1986 Authorized
		Enacted	Supplemental	
Attorneys (905).....	382	395	12	407
Paralegal (950).....	59	62	3	65
Other legal and kindred (900-998).....	10	10	...	10
Other miscellaneous (001-099).....	2	3	...	3
Social sciences, economics (100-199).....	7	7	...	7
General admin., clerical (300-399).....	237	244	13	257
Accounting and budget (500-599).....	7	7	...	7
Total.....	704	728	28	756
Washington.....	492	513	28	541
Field.....	212	215	...	215
Total.....	704	728	28	756

## CIVIL DIVISION



Approved: *[Signature]* Date: 1/1/83  
 EDWARD C. SCINHELIS  
 Deputy Attorney General

Civil Division  
Salaries and expenses, General Legal Activities  
Crosswalk of 1985 Charges  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request		Congressional Appropriation Actions on 1985 Request		Reprogramming		Supp. Pay		1985 Proposed Reclassification		1985 Appropriation Anticipated	
	Pos.	WY Amt.	Pos.	WY Amt.	Pos.	WY Amt.	Pos.	WY Amt.	Pos.	WY Amt.	Pos.	WY Amt.
Federal Appellate Activity.....	64	69	83,890	...	...	-873	...	884	-813	64	69	83,898
Torts Litigation.....	200	199	25,634	...	...	-137	...	238	-89	200	199	25,636
Commercial Litigation...	245	238	16,566	-20	-15	-2,834	...	270	-34	225	223	13,968
Federal Programs.....	172	178	16,098	...	...	-111	...	206	-33	172	178	16,160
Consumer Litigation.....	35	37	1,638	...	...	-23	...	45	-5	35	37	1,655
Immigration Litigation..	30	30	2,664	...	...	-20	...	37	-9	30	30	2,672
Management and Administration.....	106	107	4,799	...	...	-89	...	139	-12	106	107	4,837
Total.....	852	858	71,289	-20	-15	-3,287	...	1,019	-195	832	843	68,816

Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Actions

The Congress eliminated the request for automated litigation support of \$1,248,000 and reduced the funding and staffing requested to handle commercial litigation by \$1,482,000, 20 positions and 15 workyears. The Congressional action included a reduction to the Standard Level User Charges request of \$857,000 because of the decision to allow only a 7 percent increase in Standard Level User Charges.

Reprogramming

Funding of \$10,000 was reprogrammed to support the Independent Counsel.

Supplemental Requested

The pay request provides \$1,019,000 to meet increased pay requirements (Executive Order 12496).

Proposed Reclassification

In accordance with section 2401 of the Deficit Reduction Act, \$195,000 is proposed for reclassifications in the areas of travel, printing, and consultant services.





Civil Division  
Salaries and expenses, General Legal Activities  
Adjustments to Base  
(dollars in thousands)

	Perm. Pos. R33	Work- Years R43	Amount R43 \$68,002
1985 as enacted.....			
Supplemental Requested:			
1985 Pay Supplemental requested.....			Amount \$1,055
Absorption.....			-36
Net pay supplemental.....			1,019
Reprogramming to Independent Counsel.....			-10
Proposed Recission.....			-195
1985 appropriation anticipated.....	R32	R43	68,816
Savings resulting from management initiatives.....			-1,326
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....			109
Restoration of reprogramming for Independent Counsel.....			10
Annualization of 1985 pay increase.....			562
Annualization of additional positions approved in 1985.....		12	539
Within-grade increases.....			286
Health benefits costs.....			66
GPO printing costs.....			6
GSA recurring reimbursable services.....			9
Federal Telecommunications System (FIS) rate increase.....			45
Department telecommunications.....			65
Automated legal research and litigation support services.....			18
General pricing level adjustment.....			710
Foreign allowances.....			3
Private Counsel.....			47
Foreign Counsel.....			38
Total, uncontrollable increases.....		12	2,513
Decreases:			
Non recurring costs for equipment.....			-127
Rate decrease for full-field investigations.....			-10
Total decreases.....			-137
1986 Base.....	R32	R55	69,866

## Salaries and expenses, General Legal Activities

Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1985						1986						Increase/Decrease	
	1984 as Enacted			Appropriation			1986 Base			1986 Estimate			Perm.	
	Pos.	WY Amount	Perm.	Pos.	WY Amount	Perm.	Pos.	WY Amount	Perm.	Pos.	WY Amount	Perm.	WY Amount	WY Amount
Federal Appellate														
Activity.....	60	66 \$3,416	60	60 \$3,419	64	69 \$3,988	64	70 \$3,969	64	70 \$3,969	64	70 \$3,969	...	...
Torts Litigation.....	177	182 21,137	177	177 18,050	200	199 25,636	200	205 25,888	200	205 25,888	200	205 25,888	...	...
Commercial Litigation..	205	208 12,264	205	205 12,260	225	223 13,968	225	228 14,251	225	228 14,251	225	228 14,251	...	...
Federal Programs.....	172	170 12,697	172	148 12,695	172	178 16,160	172	178 16,377	172	178 16,377	172	178 16,377	...	...
Consumer Litigation....	35	37 1,569	35	35 1,631	35	37 1,655	35	37 1,699	35	37 1,699	35	37 1,699	...	...
Immigration Litigation..	30	30 2,070	30	30 2,050	30	30 2,672	30	30 2,710	30	30 2,710	30	30 2,710	...	...
Management and														
Administration.....	106	107 4,515	106	107 4,516	106	107 4,837	106	107 4,972	106	107 4,972	106	107 4,972	...	...
Total.....	785	800 57,668	785	762 54,621	832	843 68,816	832	855 69,866	832	855 69,866	832	855 69,866	...	-8469
Other Workyears														
Holiday.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Overtime.....	8	...	...	...	...	...	...	...	...	...	...	...	...	...
Total compensable		...	...	...	...	...	...	...	...	...	...	...	...	...
Workyears.....	818	...	...	...	...	...	...	...	...	...	...	...	...	...

## Civil Division

## Salaries and expenses, General Legal Activities

## Justification of Program and Performance

Activity Resource Summary  
(Dollars in thousands)

Activity: Claims, customs, and general civil matters	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
Federal Appellate Activity.....	64	\$3,888	64	\$3,969	64	\$3,969	...	...
Torts Litigation.....	200	199 25,636	200	205 25,888	200	205 25,888	...	...
Commercial Litigation.....	225	223 13,968	225	228 14,251	225	228 14,251	...	...
Federal Programs.....	172	178 16,160	172	178 16,377	172	178 16,377	...	...
Consumer Litigation.....	35	37 1,655	35	37 1,699	35	37 1,699	...	...
Immigration Litigation.....	30	30 2,672	30	30 2,710	30	30 2,710	...	...
Management and Administration.....	106	107 4,837	106	107 4,972	106	107 4,972	...	...
Total.....	832	843 68,816	832	855 69,866	832	855 69,866	...	...

This activity provides representation for the United States' interests in all types of civil cases and matters except those within the specialized fields of the other Divisions of the Department. The litigation encompasses the full spectrum of legal problems encountered by private business enterprises because the departments and agencies of the Government are engaged in innumerable commercial ventures similar to those of a modern corporation, such as buying, selling, construction, shipping, production of energy, insurance, housing, and banking. In addition, the Division litigates the significant policy issues, often rising to constitutional dimension, associated with Government activities. Hence, the overall objective of Civil Division activity is to provide the Government with the best possible legal representation. While the Division operates as the Government's law firm, it also functions as a counselor and advisor for important Government programs that may become the subject of litigation.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
Appellate Litigation.....	64	\$3,888	64	\$3,969	64	\$3,969
					...	...

Long-range Goal. To protect the interests of the United States by successfully defending against appeals seeking reversal of appellate court and agency decisions favorable to the Government, securing the reversal of appellate court or agency decisions against the Government, and preparing documents for filing in the Supreme Court.

#### Major Objectives.

- To prevail in appellate litigation challenging trial court or administrative decisions in favor of the United States.
- To initiate and prevail in appeals in which the Government's opponents were successful at the trial court or administrative levels.
- To protect the Government's interest at the highest level of appeal by preparing documents to be filed by the Solicitor General in the Supreme Court.

Base Program Description. The Appellate Staff defends the interests of the United States in litigation in Federal and state courts of appeals and prepares documents for filing by the Solicitor General in the Supreme Court. While many judgments entered at the trial courts level in Civil Division cases are favorable to the Government, they are often appealed by the opponent. To ensure resolution of the problem which initially gave rise to the litigation (i.e. recovery of monies, protection or enforcement of Federal programs, or defense of monetary claims), these cases must be defended at the appeals court level. Similarly, adverse trial court decisions must be studied and analyzed, and appeals filed and prosecuted if the Government's interest is to be fully protected. Finally, several major Federal statutes provide direct review of administrative decisions at the appeals court level.

The Division has exempted from the standard appeals memoranda procedures all non-controversial cases (i.e., cases in which all recommendations are against appeal and the legal issues are not serious) in which the award of damages against the Government is less than \$500,000. This change in procedure promises to free the Staff of the need to process hundreds of memoranda per year.

- Figures reveal that Supreme Court case receipts and memoranda are projected to increase in 1986 by 35.5 percent over 1984. In 1985 Supreme Court case receipts are estimated to be 29 percent higher than in 1984. These increases are attributable to the pattern of growing civil suits in Federal courts and to the cases generated by the new Offices of Immigration Litigation and Consumer Litigation.
- At the court of appeals level, pending cases and memoranda estimates reflect an increase in 1986 of 53.9 percent over 1984. The Appellate Staff will personally handle 8 percent of case receipts in 1986 and they will personally prepare 84 percent of the memoranda of appeal.

**Accomplishments and Workload:** Workload of the Federal Appellate Staff are presented in the following table:

<b>Appellate - All Courts - Cases and Memoranda</b>		<b>1983 Actual</b>	<b>1984 Actual</b>	<b>1985 Estimate</b>	<b>1986 Estimate</b>
<b>1. Personally Handled Cases</b>					
Pending -- start-of-year		843	1,296	1,678	1,879
New Cases		1,234	1,374	1,530	1,577
Terminations		781	992	1,129	1,431
Pending -- end-of-year		1,296	1,678	1,879	2,025
<b>2. Supervised Cases</b>					
Pending -- start-of-year		415	536	751	944
New Cases		570	677	1,021	1,193
Terminations		449	462	828	994
Pending -- end-of-year		536	751	944	1,143
<b>3. Cases Received and Delegated</b>					
		1,276	1,162	1,213	1,321
<b>4. Total</b>					
Pending -- start-of-year		1,258	1,832	2,429	2,823
New Cases		1,080	3,213	3,764	4,091
Terminations		2,506	2,616	3,370	3,746
Pending -- end-of-year		1,832	2,429	2,823	3,168

The Appellate Staff has continued to seek management efficiencies to enable it to cope with a burgeoning caseload. As civil filings in the district courts have soared it has carried over into the Courts of Appeals and the Supreme Court. The Appellate Staff has moved in several directions to try to meet its growing workload. The most significant improvements during the past year were the streamlining of the assignment process for the courts of appeals cases, curtailing mail procedures, and implementing the Automated Management Information Civil Users System (AMICUS).

During the past year, the Appellate Staff handled a variety of litigation of national significance. The Appellate Staff has been able to maintain a remarkable rate of success in winning approximately 83 percent of its cases in the face of a caseload of mounting complexity, such as, multi-jurisdictions, multiple parties, and issues of paramount concern to the Government. This record is especially noteworthy because the cases handled by the Appellate Staff present the greatest difficulty since they are ordinarily those lost in the district court.

United States v. S.A. Empresa De Viacao Aerea Rio Grandense (Varig Airlines) et al. In this case, the Supreme Court held that the discretionary function exception to the Federal Tort Claims Act bars imposing liability on the United States for the negligence of the Federal Aviation Administration in inspecting aircraft and issuing airworthiness certificates. The Court's decision should be instrumental in avoiding a staggering amount of liability on the United States for failure to uncover defects or improprieties pursuant to regulatory inspections.

IGNS v. Adan Lopez-Mendoza and Elias Sandoval-Sanchez. In this case, the Supreme Court held that the Fourth Amendment's exclusionary rule is not applicable in civil deportation proceedings, reversing a decision of the Ninth Circuit. In so holding, the court accepted the Staff's argument that the application of the exclusionary rule to deportation proceedings carries heavy systemic costs in the form of an increased workload on immigration judges and additional record-keeping requirements imposed in the arrest process on immigration officers. The savings to the Government in defeating the imposition of an exclusionary rule, though not specifically quantifiable, is immense.

United States v. Onslow County Board of Education, et al. Onslow County Board of Education is a recipient of funds under the Federal Impact Aid and School Construction Programs. When the amount of funds Onslow County received under these programs was reduced 80 percent because of Federal budget cuts, the County adopted a tuition plan whereby all non-domiciliaries would have to pay tuition to attend its public schools. Since the effect of this plan would fall 92 percent on military dependents, the Government filed suit. Accepting all of the arguments, the Fourth Circuit held that by attempting to charge tuition to military dependents, the school board breached its contract with the United States under the school construction program -- that required it to provide education to federally-connected children on the same basis as all other children. The court also held that the plan was unconstitutional because it intentionally discriminated against the military and because "tuition" was a substitute for a prohibited tax under the Soldiers and Sailors Civil Relief Act (which exempts military personnel from paying income and personal property tax in the locality in which they are stationed). The fiscal impact of this case is substantial. The military indicated that, had the office not been successful, the Department of Defense would have undertaken to educate its dependents itself at a cost of one-half billion dollars per year nationwide.

#### 1985 Appropriation Anticipated

	Anticipated		1986 Base		1986 Estimate		Increase/Decrease					
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount				
Torts Litigation.....	200	199	\$25,646	200	205	\$25,888	200	205	\$25,888	...	...	...

Long-range Goal. To protect the interests of the United States by successfully litigating in defense of nonmeritorious monetary claims, preventing excessive losses from meritorious claims, and maximizing the monetary recovery for injury and damages to Government property.

#### Major Objectives.

To prevail in the defense of tort actions brought against the Government, its agencies and individual Federal employees and to seek contribution and indemnity from third parties where the Federal Treasury has been required to satisfy the obligations of another party.

To initiate and prevail in affirmative actions when the Government has sustained injury or expended resources on behalf of another party.

Base Program Description. In the course of carrying out the missions and duties assigned by the Congress and the President, the Government and its employees are frequently challenged by private and corporate plaintiffs seeking monetary damages based upon allegations that the United States and/or its officials are responsible for negligent or wrongful conduct or for violating constitutional and common law rights of the plaintiffs causing damage or injury. In

addition, the acts of private tortfeasors sometimes result in injury or damage to Government property which prompts affirmative actions by the United States for compensation. The Torta Branch serves a vital role as the guardian of the public funds because it defends tort claims and suits against the United States, its officers, and employees.

The standard rule that the United States should not be liable for its regulatory or program activities is increasingly under attack. Compounding this is the liberalization of the expansion of tort law both in the courts and the private sector. Traditional government defenses are no longer ironclad. Cases which historically would have been the subject of relatively simple motions are now of major importance and threaten enormous fiscal impact. The plaintiffs' bar has begun to view the Government as an opponent with limited litigation resources, but with unlimited ability to fund adverse judgments.

- New cases are projected to increase significantly, especially in the area of asbestos where new receipts are expected to increase from 1,002 in 1984 to 14,332 in 1986. Other defensive cases will experience a 27 percent increase during the same period.

Accomplishments and Workload: Workload of Torta Litigation is presented in the following table:

Torta Litigation Caseload - All Cases		1983	1984	1985	1986
		Actual	Actual	Estimate	Estimate
1. Personally Handled Cases					
Pending -- start-of-year		2,969	4,863	5,735	12,731
New Cases		1,302	2,074	8,554	15,208
Terminations		997	1,202	1,558	2,119
Pending -- end-of-year		3,274*	5,735	12,731	25,820
2. Jointly Handled/Monitored Cases					
Pending -- start-of-year		5,032	4,198	4,874	5,756
New Cases		2,337	2,196	2,667	2,738
Terminations		1,582	1,520	1,785	2,075
Pending -- end-of-year		5,787*	4,874	5,756	6,419
3. Cases Received and Delegated					
		1,560	1,281	1,099	2,004
4. Total Cases					
Pending -- start-of-year		8,001	9,061	10,609	18,487
New Cases		5,199	5,551	12,320	19,950
Terminations		4,139	4,003	4,442	6,198
Pending -- end-of-year		9,061	10,609	18,487	32,239

\* 1,589 asbestos cases being handled by U.S. Attorneys as supervised cases were recalled by the Torta Branch early in 1984 for personal handling as part of the congressionally approved centralization of all asbestos litigation defense efforts.

In the past two years, the Branch has demonstrated remarkable success in defending the interests of the United States in



tort litigation. It has defended over \$97 billion in claims against the United States and individual defendants, which resulted in the savings of approximately \$96.8 billion, and sought over \$46 million in affirmative claims with a recovery of approximately \$12 million.

In the Swine Flu litigation the record of the Torts Branch has been far more favorable than had been anticipated. While some suits, mostly involving Guillain-Barre syndrome, have been settled, the remaining suits have been vigorously defended with less than five percent resulting in adverse liability judgments (only 45 judgments entered against the United States while 872 cases resulted in judgments for the government or dismissals). Eighty-four percent of all Swine Flu suits filed with the courts have now been resolved; by 1986, it is expected that as few as 100 cases will remain to be tried.

In Plivens suits the Torts Branch continues to achieve enviable results. Of approximately 12,000 cases which have been filed in the past decade against the individual federal employees, there have been only 23 known adverse judgments with only four of these having been paid by the individual defendants; many of the remainder may still be reversed on appeal. In a series of cases, the Branch has been responsible for the development of favorable law which protects the Attorney General and, by extension, other Cabinet officers and agency heads from threats of personal liability as they attempt to fulfill the enormous responsibility placed upon their shoulders.

The Division has mounted an aggressive defensive campaign and implemented a policy of rejecting any and all asbestos settlement offers. The results to-date are impressive. The Division has lost but a single asbestos case (Shuman) which is presently on appeal. The other four asbestos trials to date have resulted either in a verdict for the United States or an inconclusive termination. This record was achieved in the face of a rapidly expanding caseload and prior to the recent addition of adequate staff necessary to manage and conduct a centralized asbestos defense effort. With the infusion of additional personnel and state-of-the-art application of automated litigation support to facilitate storage and retrieval of the vast asbestos document collection, the Branch is mounting an aggressive, nationwide defense to the challenges to the public treasury by the asbestos industry and its insurers. In other areas of toxic torts, litigation relating to "latent" diseases - those appearing several years after initial exposure to toxic substances - will dominate tort law in the 1980's and 1990's. Also, additional hazardous substances are constantly being discovered such that new areas of litigation are sure to arise. Suits against the United States are premised upon governmental activities in the form of regulation of toxic substances, and governmental actions during the chain of distribution. Thus, potential exposure of the Government to large adverse judgments can take many forms and these complex, highly technical cases require careful handling with centralized control and national perspective.

The Branch's aviation attorneys have continued to successfully handle cases of increasing complexity. For example, after extensive discovery and almost 100 depositions, all actions against the United States arising out of the Air Florida Boeing 737 crash in Washington, D.C., were dismissed. Other ongoing cases involve the downing of a Korean Airlines Flight 007, the crash landing of the Air Canada DC-9 at Cincinnati and the thunderstorm related crash of a Pan American 727 in New Orleans. In the admiralty area, the Torts Branch is responsible for the mass-disaster litigation arising from the Ocean Ranger oil rig collapse as well as for hundreds of seaman injury cases. Affirmative admiralty claims provide the Branch with its largest marine mortgage bankruptcy distributions. The Pacific Far East Lines bankruptcy cases alone resulted in the recoveries of approximately \$39,000,000 for the United States.

	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Commercial Litigation..	225	223 \$13,968	225	228 \$14,251	225	228 \$14,251	...	...

Long-range Goal. To successfully prosecute claims for the recovery of monies fraudulently secured or improperly diverted from the United States; defend international trade policy; defend and assert the Government's contract and intellectual property rights; defend and assert the Government's financial and commercial interest under foreign treaties; and collect monies owed the United States as a result of civil judgments, compromises, and defaulted loans.

Major Objectives.

To save the Government money by winning lawsuits and obtaining favorable settlements of contract, intellectual property, international trade, and Government employment litigation brought against the United States.

To collect money owed the United States as a result of defaulted contracts, unpaid loans, unsatisfied judgments, breach of grant agreements, and misuse of benefit programs.

To recover funds lost through fraud in any Government program and through the corruption of public employees, and to deter future losses by collecting the statutory penalties allowed for such violations.

To defend Government policies challenged in litigation involving monetary damages.

Base Program Description. The Branch is responsible for defending actions seeking money judgments against the United States and for initiating civil action to collect money owed the United States as a result of various commercial and statutory activities. As Federal budget outlays increase, particularly for defense, litigation concerning expenditures through the commercial sector rises proportionately. The Commercial Litigation Branch is also responsible for the Government's civil litigation arising from fraud, bribery, and official misconduct, the collection of civil fines or other money judgments, and the collection of defaulted loans. The Branch's activities are largely defensive in its efforts to protect the financial interests of the United States.

Defensive caseloads continue to steadily rise in the Branch. An approximate 59 percent increase in active cases is expected from 1984 to 1986. The dollars being defended are expected to grow from \$13.4 billion in 1984 to \$16.5 billion in 1986.

In affirmative litigation, the Branch recovered \$115 million in 1984 and estimates recovery of \$126 million in 1985 and \$116 million in 1986.

Accomplishments and Workload: Workload of Commercial Litigation is presented in the following table:

Commercial Litigation - All Cases				
	1983 Actual	1984 Actual	1985 Estimate	1986 Estimate
1. Personally Handled Cases				
Pending -- start-of-year	3,061	5,819	7,819	9,450
New Cases	1,722	3,271	2,950	2,529
Terminations	946	1,271	1,319	1,165
Pending -- end-of-year	5,819	7,819	9,450	10,814
2. Jointly Handled/Monitored Cases				
Pending -- start-of-year	5,631	8,212	12,056	15,506
New Cases	4,265	6,255	6,225	6,122
Terminations	1,684	2,411	2,775	2,921
Pending -- end-of-year	8,212	12,056	15,506	18,707
3. Cases Received and Delegated	5,145	4,081	4,582	5,304
4. Total Cases				
Pending -- start-of-year	8,692	14,031	19,875	24,956
New Cases	13,132	13,607	13,737	13,955
Terminations	7,793	7,763	8,656	9,390
Pending -- end-of-year	14,031	19,875	24,956	29,521

In a series of chapter 11 bankruptcy proceedings involving defense contractors, the Branch successfully defended the integrity of the military's procurement system by insuring that millions of dollars worth of inventory, covered by the progress payment clause in contracts, and government furnished equipment may be transferred promptly to new contractors notwithstanding debtors' efforts to retain the property under various provisions of the Bankruptcy Code.

Shanghai Power Company v. United States. A Branch attorney successfully resisted claims by Shanghai Power Company and other claimants that the 1979 agreement with the People's Republic of China, which released that nation from all claims by the United States and its nationals resulting from China's seizure of assets in 1950, constituted a taking of the plaintiffs' property and therefore the Fifth Amendment required us to pay plaintiffs just compensation. The Government's potential liability in these cases was in excess of \$640 million. An appeal is pending.

In Rockwell International Corp. v. United States, an unsuccessful offeror sought an injunction restraining the award of a contract, with options totalling approximately \$525 million, for development and construction of a direction, communication, and warning system to be utilized in the event of nuclear or other emergency. The Branch successfully defended against issuance of the injunction, thus allowing this critical national defense procurement to be awarded in a timely manner. This decision and others in the Government's favor rendered by the Claims Court in bid protest cases enabled the Branch to minimize the disruption to several Government procurements, which could have weakened Federal defense capabilities.

R.G. Hohlmann & Co., et al. In coordination with the Criminal Division, the Branch recovered almost \$4 million in illegal overseas payments and inflated charges arising from the shipment of military equipment to Egypt under a Department of Defense foreign assistance program.

In Corning Glass Works v. U.S., patent infringement case in which Corning sought compensation for the Government's use of optical fibers, the Branch negotiated a favorable settlement which included a release for all past use of inventions covered by the four basic patents in suit and a license on favorable terms covering the future use of over 100 domestic and foreign patents owned by Corning relating to all aspects of fiber optic technology.

Branch attorneys manage the representation of the United States in affirmative and defensive foreign litigation involving significant sums of money. For example, Branch attorneys are involved in the litigation of In re Prigitemp, a suit in Switzerland asserting claims on behalf of the United States amounting to \$2.5 million in Swiss bank accounts which have been attached. The defendant involved is the subject of criminal proceedings involving bribery/kickback charges, as well as civil fraud proceedings in the United States.

In U.S. v. Melamine Chemicals, Inc., the Court of Appeals for the Federal Circuit reversed a Court of International Trade decision finding a regulation of the Commerce Department to be invalid. Additionally, in a holding which will have broad ramifications upon all international trade cases, the court held that (absent a preliminary injunction) all entries of merchandise covered by a Commerce determination challenged in court are to be liquidated in accordance with the challenged determination until all litigation regarding the validity of the determination is concluded.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Anticipated			Perm.			Perm.			Perm.	
	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY	Amount	Pos.	NY
Federal Programs.....	172	178	\$16,160	172	178	\$16,377	172	178	\$16,377	...	...

Long-range Goal. To successfully defend the challenges to Federal civil programs, policies, and initiatives and to enforce remedies for statutory violations of Federal programs.

#### Major Objectives.

To prevail on behalf of the United States in defensive civil litigation which arises from judicial review of the programs, policies, initiatives, and decisions of the President and Executive Branch agencies and their officials, as well as litigation undertaken in defense of officials of the Legislative and Judicial Branches.

To initiate and prevail in affirmative litigation aimed at remedying statutory and regulatory violations.

Base Program Description. The Federal Programs Branch serves to defend the integrity and enforcement, and often the continuing existence and viability, of virtually all Federal agencies' programs, policies, initiatives, and decisions. The public, either individually or through various organizations and groups, have turned increasingly to the courts in an effort to change programs, policies, and decisions they perceive to be deficient or with which they disagree. Consequently, an ever-increasing number of vital Government policies and programs are continuously subjected to legal

challenges which must be defended against vigorously. It is the job of the Federal Programs Branch to provide the Government's agencies and their officers with such representation to ensure that Government policies and decisions are not frustrated through the judicial process.

The Branch represents, in civil litigation, the United States and its nearly 100 Departments and agencies, Members of Congress, the Federal Judiciary, Cabinet members, and other Federal executives, officers, and employees acting in their official capacities. Most of the litigation is defensive in nature, such as representing the Government in suits challenging the constitutionality of recently enacted or existing legislation, Presidential initiatives, or agency actions.

The litigation defended by the Branch, while generally not for specific monetary amounts, does include cases with actual or potentially massive impact upon the Federal treasury and budget. One such group of cases involves the Washington Public Power Supply System (WPPSS) financial calamity. The Division, handling the litigation primarily on the behalf of the Bonneville Power Administration and the Rural Electrification Administration, will be defending United States' interests in up to 40 lawsuits with a potential liability of \$7 to \$28 billion.

Litigation handled by the Branch profoundly affects Federal entitlements expenditures. Every entitlements program that the Congress enacts generates civil litigation. Most such suits are brought by special interest groups generally challenging restrictive statutory provisions and the regulations promulgated by the agencies administering the various programs. In effect, the plaintiffs turn to the Federal courts to accomplish what the Congress has denied them. Those whom the Federal courts declare eligible for these automatic spending programs become entitled to their benefits just as if they had been included within the scope of the original program or legislation. It is difficult to project the costs of potential judicial decisions which would entitle these plaintiffs to Federal benefits, but the affected agencies estimate these costs to be in the billions of dollars over the life of the entitlements programs.

- Figures reveal that 1986 defensive caseload will increase by more than 42 percent over the 1984 level. While new cases are projected to increase in all areas of handling, the increasing workload combined with the fact that the complexity of new cases is requiring more attorney time means that more cases will be delegated.

Accomplishments and Workload: Workload of Federal Programs is presented in the following table:

Federal Programs - All Cases	1983 Actual	1984 Actual	1985 Estimate	1986 Estimate
<b>Personally Handled Cases</b>				
Pending -- start-of-year	1,028	1,208	1,121	1,101
New Cases	621	316	395	387
Terminated	441	403	415	400
Pending -- end-of-year	1,208	1,121	1,101	1,088
<b>Jointly Handled/Monitored Cases</b>				
Pending -- start-of-year	5,182	5,204	5,468	5,624
New Cases	1,011	1,021	1,135	1,226
Terminated	989	757	979	982
Pending -- end-of-year	5,204	5,468	5,624	5,860
<b>Cases Received and Delegated</b>	2,256	2,257	2,891	3,166
<b>Total Cases</b>				
Pending -- start-of-year	6,210	6,412	6,589	6,725
New Cases	3,888	3,594	4,421	4,979
Terminated	3,686	3,417	4,285	4,748
Pending -- end-of-year	6,412	6,589	6,725	6,956

Cases of major importance are handled personally by the Branch's attorneys, who are also responsible for supervising and coordinating the handling of other suits by Assistant United States Attorneys throughout the country. Cases of major importance include those in which the factual and legal issues presented will have nationwide impact, are particularly novel or sensitive, or will affect a large number of pending cases. Such cases include suits challenging Administration initiatives, cases concerning significant agency rulemaking, cases involving alleged improper patronage dismissals, reduction-in-force litigation, suits involving national security, matters which attack the constitutionality of Intelligence and law enforcement programs, and many suits under the Freedom of Information and Privacy Acts. The Branch devotes approximately 79 percent of its attorney time to personally handling this extremely important litigation.

The dramatic upward trend in the number of extraordinarily complex and time-consuming cases handled by the Branch has continued this past year. The massive litigation surrounding the construction of five nuclear power plants in the Pacific Northwest by the Washington Public Power Supply System (WPPSS) has not abated, and it has become clear that the litigation, to which significant Branch resources have already been dedicated, will increase in the coming years. Indeed, the Branch has been compelled to establish an office in Portland, Oregon to handle this massive and complex litigation. Most of the WPPSS-related lawsuits concern the termination of two of the multi-billion dollar nuclear projects and the mothballing of two others. The Branch's principal client, the Bonneville Power Administration (BPA), has been subjected to a wide variety of claims, including breach of contract, negligence, lack of authority and intentionally inducing the nearly 100 participating utilities to contract for the nuclear plants.

Another action to which considerable Branch resources have been devoted this past year is United States v. General Motors, the first case brought under the National Traffic and Motor Vehicle Safety Act that seeks the imposition of civil penalties against a manufacturer for providing false information to the National Highway Safety Administration during a defect investigation.

Founding Church of Scientology v. FBI, a wide-ranging civil action against eight federal agencies, in which the Church of Scientology seeks relief to halt the government's alleged 30-year conspiracy to discredit and harass the Church, also exemplifies this trend. A mid-1984 scheduling order issued by the court imposed onerous discovery burdens, which, together with necessary briefing, required the assembly of a five-person trial team which has devoted the latter half of 1984 almost exclusively to the case.

United States v. Yonkers and Jenkins v. Missouri, major discrimination pattern-and-practice cases in which Cabinet Departments are co-defendants, also exemplify the trend toward more burdensome, resource-draining litigation which must be handled by the Branch. Yonkers, which was extremely active for over two years and involved massive discovery, was in trial for more than five months before being settled in mid-1984. The Jenkins trial, commenced in November, 1983, did not end until June 1984. Branch attorneys secured dismissal of this action in September when judgment was entered for the government. An increasing number of discrimination pattern-and-practice cases requiring equal or greater dedication of attorney resources than did Yonkers and Jenkins are anticipated in fiscal year 1986 and beyond due to recent adverse decisions in the courts of appeals and district courts.

Class actions brought by government employees, mostly under Title VII, are also expected to require increased dedication of attorney and monetary resources in the future. Presently, the Branch is handling 19 of these class actions -- many more than it has handled at any time in the past -- due to the inability of the U.S. Attorney's offices to devote adequate resources to these complex cases. In any one case, if liability is established, second stage proceedings can require litigation of hundreds of individual claims.

In APL-CIO v. Donovan, organized labor groups challenged the new Service Contract Act regulations restricting the number of government contracts which must contain "prevailing wage" requirements. The district court upheld the regulations, which will save an estimated \$124,000,000 a year in government contracting costs, if the government also prevails on appeal.

The Branch has been heavily involved during the last year in Social Security disability and Medicare litigation. In the area of disability litigation, the Branch has been responsible for handling many of the most important class action suits pending around the country challenging various aspects of the standards used by the agency in evaluating disability claims. Moreover, since October, the Branch has been engaged in overseeing the implementation of the new Social Security Disability Benefits Reform Act of 1984, which requires remand to the agency of the 9,000 individual cessation cases and 20 class suits involving the "medical improvement" issue pending in courts around the country.

1985 Appropriation Anticipated	1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount	Perm. Pos.	NY Amount
Consumer Litigation....	35	37 \$1,655	35	37 \$1,699	...	...

Long-range Goal. To protect the interests of consumers from defective or harmful products and from unfair and deceptive trade practices.

Major Objectives.

To provide effective enforcement of Federal consumer protection statutes through institution of affirmative civil litigation.

To consider the prosecutive merit of criminal matters under consumer protection statutes and initiate or assist in the conduct of appropriate criminal proceedings.

To represent the United States in defensive litigation when initiatives and programs of the principal consumer protection agencies are challenged.

Base Program Description. The Office of Consumer Litigation was established in the Civil Division under a reorganization plan approved by Congress in 1983. Prior to this reorganization, the functions of this Office were part of the Antitrust Division. The Office has responsibility for litigation under Federal statutes that protect public health and safety and regulate unfair and deceptive trade practices in interstate commerce.

The Office initiates affirmative litigation to: (1) ensure that unsafe and adulterated foods and drugs do not reach the marketplace; (2) protect the integrity of the drug approval process; and (3) enforce Federal policies in the regulation of foods. Affirmative litigation also covers such areas as hazardous and unsafe consumer products; unfair debt collection and consumer credit practices; franchising; door-to-door and mail order sales; enforcement of administrative orders relating to price fixing and divestiture; unfair and deceptive advertising practices; and cigarette and automobile labeling. Through the initiation of grand jury and criminal proceedings under the Federal statute prohibiting odometer tampering, the Office addresses a pervasive economic fraud estimated to cost the public as much as \$1 billion a year. In defensive litigation, the Branch represents the Government in challenges to Federal policies and initiatives aimed at protecting the public in its purchase of foods, drugs, devices, and consumer products.

The Office experienced a continued increase in Food and Drug Administration (FDA) case referrals. Of this increase, over two-thirds were in case categories other than routine product seizures. Increases were experienced in the numbers of injunctive actions, seeking for instance, cessation in distribution of adulterated or misbranded foods or drugs or requiring compliance with food manufacturing practices; contested seizure actions in which the Office seeks to condemn foods and drugs not in compliance with the food and drug laws; criminal actions; and warrant cases.

The Office anticipates a 25 percent increase in criminal case receipts over the 1984 level. While in the past almost all the criminal case receipts were simple misdemeanor cases for maintaining foods under unsanitary conditions, and rarely



required grand jury investigations, the majority of criminal cases now received are felony cases requiring, in many instances, extensive grand jury work and involving false claims, conspiracy, and other charges unrelated to the Food, Drug and Cosmetic Act as well as charges under the Act. Currently, numerous cases involve the falsification of drug studies, investigational new drug applications, or blood plasma records, and failure to promptly or adequately report critical information. Other cases relate to illegal shipments of drugs and commercial fraud with respect to FDA regulated products. The increased complexity of criminal cases received in recent years has required shifting of resource allocations to criminal cases which require a disproportionate amount of attorney time.

In addition, the Office initiates affirmative civil litigation involving significant judgments and recoveries. The Office is currently handling an appeal challenging a \$4 million judgment awarded to the Government in one of the Office's cases.

Accomplishments and Workload: Workload of Consumer Litigation are presented in the following table:

Total Cases	1983 Actual	1984 Actual	1985 Estimate	1986 Estimate
Pending -- start-of-year	518	578	709	727
New Cases	388	337	392	392
Terminated	328	206	374	374
Pending -- end-of-year	578	709	727	745

United States v. Louisiana Pacific Corp. In this major action for civil penalties and injunctive relief, final judgment of \$4 million in civil penalties was awarded to the Government for the defendant's violations of an FTC cease and desist order requiring the divestiture of a manufacturing plant.

United States v. JSA Group Inc. The Office was successful in an appeal taken by a major mail order firm challenging the procedures used by the Federal Trade Commission in promulgating its Trade Regulation Rule regarding mail order merchandise. The firm's appeal occurred in a suit initiated by the Office seeking civil penalties and injunctive relief for numerous violations of the Rule in the course of the mail order firm's activity.

United States v. Smithkline Beckman Corp. The Office filed a 34 count criminal suit charging Smithkline and four of its employees with violations of the Food, Drug and Cosmetic Act, in the marketing of an antihypertensive drug, Selactryn, which was shown to cause liver cancer. The charges relate to the failure of the firm to submit to the FDA, reports of liver damage associated with Selactryn use.

United States v. Blackman. Under the Food, Drug and Cosmetic Act, a former pharmaceutical company vice president indicted for fraudulently mislabeling and misdating over one million capsules of ampicillin, plead guilty to three counts. In the same matter, a pharmacist, also indicted for trafficking in the mislabeled ampicillin capsules, entered a guilty plea. The case was successfully terminated with each defendant sentenced to a fine, probation and community service.

United States v. Purity Condiments. The Office was successful in convicting this firm and its two managing officers for violations of the Food, Drug, and Cosmetic Act in connection with the operation of a food warehouse. In other cases, the Office successfully proceeded against a beverage firm for manufacturing and shipping soft drinks contaminated with mold, rot, and mites, and similarly filed charges against a food wholesaling firm for holding for sale foods maintained under unsanitary conditions.

The Office defended the Food and Drug Administration in a number of important cases, including McNeillab, Inc. v. Heckler, a challenge to FDA's safe approval of the OTC of Ibuprofen (aspirin substitute), Nurlich v. Schweiker and American Health Products v. Hayes, which challenged FDA's classification of starch blockers as drugs, Formula v. Heckler for enforcement of the agency's infant formula rule. In Community Nutrition Institute v. FDA, the official successfully defended, in the District Court, agency action with respect to the use of aspartame, the artificial sweetener commonly known as Nutrasweet.

The Office's active role in prosecution of odometer tampering cases was highlighted by the successful prosecution of thirteen used car dealers in Chattanooga, Tennessee on charges of mail fraud, criminal contempt, and odometer fraud. Defendants were given significant jail sentences in these cases which are important to the Office's odometer fraud program.

	1985 Appropriation Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
Immigration Litigation..	30	\$2,672	30	\$2,710	30	\$2,710	...	...

**Long-range Goal.** To protect the interest of the United States by successfully defending challenges to Federal civil immigration programs, policies and initiatives and conducting civil litigation under the immigration and naturalization laws.

**Major Objectives.**

To prevail in all civil immigration litigation arising under the Immigration and Nationality Act and related laws.

**To enforce programs undertaken for the purpose of facilitating the detention of aliens.**

**To represent the United States in civil litigation brought against executives of the Immigration and Naturalization Service in their official capacities,**

To prevail in appellate litigation challenging trial court or administrative decisions in favor of the United States.

Base Program Description. The Office of Immigration Litigation was established in the Civil Division on February 7, 1983, pursuant to a reorganization plan approved by Congress. The office is responsible for handling a wide variety of immigration cases, the most prominent of which include major class actions attempting to halt or otherwise frustrate

enforcement of the laws. Current examples of such cases include a challenge to the manner in which the Immigration and Naturalization Service (INS) adjudicates its administrative cases involving excludable Haitians who may or may not be seeking asylum; a challenge by Salvadorans who claim that the INS, State Department and Attorney General fail to process asylum claims in a lawful manner; a challenge by dangerous Cubans who arrived during the 1980 Cuban flotilla to the authority of the United States to protect the public through the continued detention of the aliens; and cases attacking the manner in which the INS conducts its efforts to locate and apprehend illegal aliens in the interior of the United States. Cases of this sort have the potential for severely hampering the ability of the INS to enforce the laws enacted by Congress and for weakening or destroying the Government's ability to respond to the ever present influx of undocumented aliens who are attracted to the United States by the job opportunities available here. Cases of this character generally require senior attorneys with experience in complex litigation and immigration law. They typically involve requests for temporary restraining orders and/or preliminary injunctions, extensive discovery, and trial. Depending on the issues, a single case can occupy one or more attorneys almost full time for the majority of a workyear.

Another major area of responsibility for the Office of Immigration Litigation involves the defense of petitions for review filed by individual aliens in the courts of appeals to challenge orders of deportation. Except for two U.S. Attorneys' offices which have experienced immigration litigators and which receive a regular flow of such petitions for review, the Office of Immigration Litigation represents the INS in all such cases nationwide. Representation of the INS in this regard has been consolidated because of the substantive expertise needed to deal effectively with both the sophisticated and the routine attacks on deportation orders.

Another area of major concern to the INS involves habeas corpus actions filed in District Courts by individual aliens who are attacking their confinement and/or their orders of exclusion from the United States. These cases often entail political asylum claims that have been rejected administratively. Successful defense of these actions, which are often filed on the eve of the alien's removal from the United States, is very important to the operation of the INS. Delays in deportation are at least partial victories for the aliens.

Recently, there has been an increase in the number of so-called *Rivens* suits against governmental officials responsible for immigration enforcement. It appears that attorneys representing individual aliens and alien groups hope to achieve added leverage against the Government in settlement negotiations by also suing governmental officials personally and then offering to release the officials from any personal liability if the Government settles the case favorably to the plaintiffs. This is a significant area of concern to Office of Immigration Litigation attorneys, who are involved in the defense of such cases either personally or through the process of deciding whether the official should receive representation at Government expense.

There is an immense incentive for aliens to litigate in the immigration area because of the resulting delays in deportation that are frequently achieved. Delays may give rise to additional claims for which the alien becomes statutorily eligible solely because of the delay in effecting deportation. Class actions intended to disrupt entire INS programs have become commonplace in the last decade. With changing world events, different groups of aliens have employed both individual and class actions as a means to frustrate enforcement of the United States immigration laws. For example, in recent years many deportable Iranians and Salvadorans have remained in the United States through the petition for review process, with its automatic stay of deportation.

- New cases in 1986 are projected to increase almost 50 percent over the 1984 level. Increases are projected to occur in all categories of cases. Cases pending at the end of the year will almost double by 1986. The mounting workload will cause more cases to be delegated and thus delegated cases will increase to more than half

the total workload in this very important area of litigation.  
Accomplishments and Workload: Workload of Immigration Litigation is presented in the following table:

District Court Claims and Appellate	1983 Actual	1984 Actual	1985 Estimate	1986 Estimate
1. Personally Handled Cases				
Pending -- start-of-year	234	316	437	582
New Cases	424	522	537	553
Terminations	342	401	392	398
Pending -- end-of-year	64	437	592	737
2. Monitored				
Pending -- start-of-year	17	149	236	321
New Cases	183	231	262	305
Terminations	51	144	177	213
Pending -- end-of-year	149	236	321	413
3. Cases Received and Delegated	640	601	970	1,142
4. Total Cases				
Pending -- start-of-year	251	465	673	903
New Cases	1,247	1,345	1,796	2,000
Terminations	1,013	1,146	1,539	1,753
Pending -- end-of-year	465	673	903	1,150

In spite of the mounting complexity of caseload the Immigration staff was able to maintain a remarkable rate of success in 1984 obtaining 88 percent of personally handled cases, 79 percent of supervised cases, and 92 percent of deportation orders of the appellate decisions in victory for the Government. All of these cases involve issues of great importance to the enforcement of immigration laws and merit the attention of this office. These cases include:

Orantes-Hernandez v. Smith. This class action brought by Salvadorans challenges, among other things, the procedures used by the INS in determining whether an illegal alien desires a deportation hearing or desires to return home without a hearing (voluntary return) and seeks to require the INS to notify all aliens of the opportunity to apply for asylum under the immigration laws. Extensive discovery was taken but the trial court stayed further proceedings over the Government's objection.

Marie Lucie Jean, et. al. v. Alan C. Nelson, et. al. This case involves a challenge by a class of Haitian aliens to the Government's policy of detaining aliens who are not eligible for admission to this country. Reversing an unfavorable panel decision, the Eleventh Circuit issued a far-reaching ruling reaffirming the exceedingly broad authority of the Executive Branch with regard to aliens and absolving the Government of any constitutional violations. The Court further indicated that high-level executive officials, such as the President and the Attorney General, have the authority under

the Immigration and Nationality Act to draw distinctions between classes of aliens on the basis of nationality. This recent victory will greatly assist the Executive Branch in its efforts to combat illegal immigration. The plaintiffs have petitioned for certiorari.

Ortega v. Rowe. This action pending in the Northern District of Texas has been partially tried on issues challenging INS' utilization of detention facilities of local law enforcement agencies. Since INS operates a small number of Service Processing Centers, utilization of detention facilities of state and local governments on a temporary basis exists until the aliens can be transferred to a center for processing, the issues in the case are of great practical concern for INS. Trial will resume in early 1985.

National Center for Immigrants' Rights v. INS. This is a nationwide class action pending in the Central District of California challenging a change in INS regulation designed to limit the employment of arrested illegal aliens who are released on bond pending deportation proceedings. The District Court issued a preliminary injunction blocking implementation of the regulatory change, and in doing so made a preliminary finding that aliens have a constitutionally protected liberty interest in working during the pendency of INS proceedings against them. The preliminary injunction was upheld by the Ninth Circuit, and the district court has been asked to render the final decision on the merits.

Pernandez-Roque v. Smith. This class action pending in the Northern District of Georgia challenges the exercise of the Attorney General's discretion to detain Mariel Cubans with a history of anti-social conduct, and seeks to establish that the detainees are entitled to asylum here. Two preliminary injunctions adverse to the Government were overturned by the court of appeals for the Eleventh Circuit; the district court, however, again ruled for the detainees in late 1984 and has blocked their removal to Cuba on the grounds that they may be eligible for asylum.

Hotel & Restaurant Employees Union, Local 25 v. Smith. In this case, brought in the District of Columbia, plaintiffs challenge the decision of the Attorney General, on advice of the Secretary of State, not to defer enforcement of the immigration laws with respect to Salvadoran nationals as a class simply because of the civil strife in El Salvador. This action also challenges the procedures of the State Department in making recommendations on individual asylum applications. The trial court has granted the Government summary judgment and plaintiffs have appealed.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	NY Amount		Perm. Pos.	NY Amount		Perm. Pos.	NY Amount		Perm. Pos.	NY Amount
Management & Administration.....	106	107	\$4,837	106	107	\$4,972	106	107	\$4,503	...	-\$469

Long-range Goal. Direct the conduct, handling, and supervision of all litigation and other matters delegated by the Attorney General to the Civil Division in a fair, successful, and consistent manner.

#### Major Objectives.

To provide executive leadership and maintain effective management, create a proper balance between central management control and individual attorney autonomy.

To secure, develop, and retain a competent and motivated staff, while maintaining a work environment conducive to maximum productivity and effective decision making.

To plan and execute management improvements and support programs, and provide administrative support services.

To secure adequate financial resources and manage their expenditure.

To develop and present to the Department legislative proposals which are reflective of a preeminent goal to promote the efficiency and effectiveness of the civil justice system.

To analyze legislative and regulatory reform proposals and ensure that their litigative impact is minimized.

To disseminate information about the work and activities of the Division to public officials and agencies and private individuals.

To coordinate and ensure implementation of the Department's efforts to collect outstanding debts owed the Government.

**Base Program Description.** As "the Government's lawyer" the Civil Division is responsible for effectively representing over 180 Federal agencies in tens of thousands of cases which present the potential loss to the Treasury of more than \$100 billion annually in direct awards, higher program costs, or changes in anticipated revenue. In addition, the Division annually handles thousands of court challenges to the statutory and regulatory integrity of the numerous other Federal programs established by the Congress, the President's domestic and foreign policy initiatives, challenges to the Nation's immigration laws and policies, and enforcement of consumer health and safety laws, including prosecutions for criminal violations of these statutes. The Management and Administration program is responsible for providing overall direction and management of the Division's programs, activities, and staff, supervising and administering its operations, advising and assisting in the formulation of the Department's civil justice policies and programs, and providing management and administrative support services to the Division's staff.

**Accomplishments and Workload:** The overall workload of the Management and Administration program is summarized by the overall workload of the Division:

All Cases	1983 Actual	1984 Actual	1985 Estimate	1986 Estimate
1. Personally Handled Cases				
Pending -- start-of-year	8,097	13,423	16,627	25,451
New Cases	7,042	7,176	13,606	19,880
Terminations	3,305	3,972	4,781	5,279
Pending -- end-of-year	11,834*	16,627	25,451	40,052
2. Jointly Handled/Monitored Cases				
Pending -- start-of-year	16,606	18,669	23,828	28,590
New Cases	8,601	10,575	11,525	11,783
Terminations	4,949	5,416	6,764	7,390
Pending -- end-of-year	20,258*	23,828	28,590	32,983
3. Cases Received and Delegated				
Pending -- start-of-year	10,677	9,221	10,402	12,603
4. Total Cases				
Pending -- start-of-year	24,703	32,092	40,455	54,041
New Cases	26,320	26,927	35,533	44,266
Terminations	18,931	18,609	21,947	25,272
Pending -- end-of-year	32,092	40,455	54,041	73,035

\* 1,589 asbestos cases being handled by U.S. Attorney's as supervised cases were recalled by the Tort Branch early in 1984 for personal handling as part of the congressionally approved centralization of all asbestos litigation defense efforts.

Division attorneys have achieved exceptional success through the litigation of their cases in 1984.

- 8,704 cases involving claims of \$84 billion against the Government were terminated. The Division's attorneys defeated 99.8 percent of these claims. Total awards to the plaintiffs in these cases were only \$145 million.
- 3,062 affirmative cases were terminated by Division attorney, recovering \$123 million for the Treasury.
- 3,691 cases challenging the integrity of Federal programs (e.g., national security, intelligence and law enforcement, social security, freedom of information, privacy, immigration, and consumer health and safety) and Presidential initiatives were terminated. The Division's attorneys secured favorable decisions in approximately 88 percent of these cases. Although the vast majority of these cases do not involve direct monetary claims, they presented the potential of billions of dollars in either higher Federal program costs or in the loss of anticipated Federal revenues.

- 536 suits seeking judicial enforcement of Federal statutes were terminated. Forty percent of this litigation involved enforcement of consumer safety and health statutes. Decisions favorable to the Government were secured in approximately 88 percent of these cases.
  - 2,616 appeals were terminated. Favorable decisions were secured in approximately 83 percent of the cases.
- In 1981 the Division began planning and implementing programs designed to meet the specific needs of their lawyers as information managers. The two pivotal components of these programs were an integrated office productivity-through-automation program called AMICUS and an automated litigation support (ALS) program.

The Automated Management Information Civil User System (AMICUS), is our office automation system. AMICUS is the tool through which our employees can access Division, Department, and commercial computers for litigation support, legal research (JURIS, LEXIS, NEXIS, WESTLAW, Civil Division Brief Banks), case management, attorney timekeeping, files management, and Department accounting and personnel management services.

The automated litigation support system combines contractor services with the Department's JURIS computers, to assist our trial attorneys in better managing their litigation by using micrographics, automated data bases, and communications networks. This support allows our attorneys to deal with the massive volumes of discovery, evidentiary, and transcript documents which they must be able to acquire, screen, organize, store, manipulate, rearrange, analyze, and retrieve. In some large-scale litigation it has become necessary to establish document centers to centralize the hard copy and microfilm collections into one library staffed by data base librarians who maintain the microfilm and automated data bases and retrieve and organize documents in response to requests by attorneys. Contractor also provide attorneys specific deposition and trial support, such as the preparation of deposition and exhibit summaries, charts, and witness notebooks.

Our management goal for the automated litigation support system is to institutionalize the system within the Division by 1987. We plan to integrate the concept into our approach to litigation planning so that each attorney faced with a new case automatically considers the use of the system. Our analysis of 1984 litigation activities indicates that litigation support is 30 percent institutionalized.

Daily our use of automation as a litigation tool shows results in higher productivity and thus achievement of the Division's major goals of winning cases for the Government and saving the taxpayers' money. Our plans for information technology in 1986 reflect our need and desire to continue to enhance our automated systems, so as to support our attorneys in their litigation efforts.

**Program Changes:** A program decrease is requested of \$469,000 as part of the overall effort to streamline administrative support functions. Reductions will occur by minimizing purchases of less essential supply, furniture, equipment, and other items.



Civil Division  
Salaries and expenses, General Legal Activities  
Priority Rankings

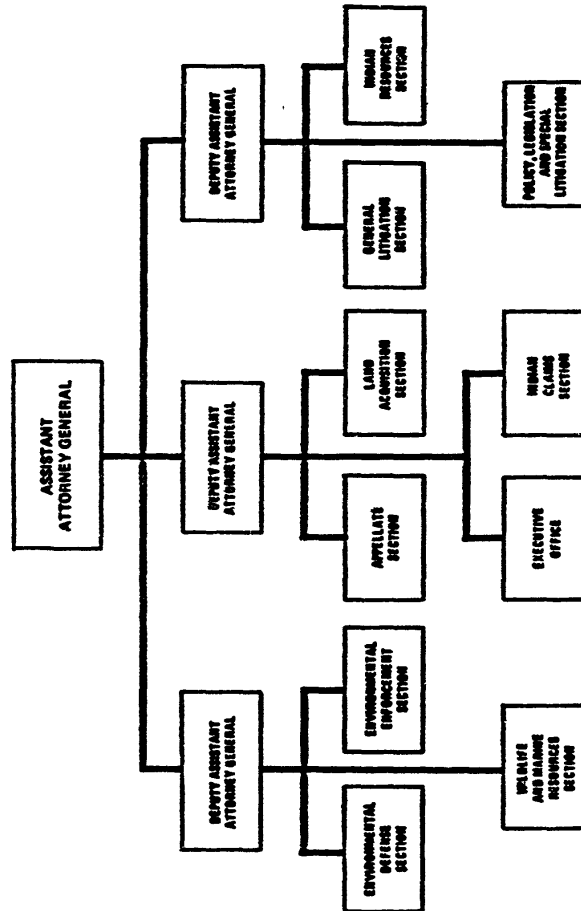
<u>Program</u>	<u>Base Program</u>	<u>Ranking</u>
Federal Appellate Activity		1
Torts Litigation		2
Commercial Litigation		3
Federal Programs		4
Immigration Litigation		5
Consumer Litigation		6
Management and Administration		7

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Civil Division  
Salaries and expenses, General Legal Activities  
Detail of Permanent Positions by Category  
Fiscal Years 1984-1986

Category	1984 Authorized	1985 Authorized	1986 Total
Attorneys (905).....	422	449	449
Paralegal Specialist (350).....	36	42	42
Gen. admin., clerical, and office svc., etc. (300-399).....	327	341	341
Total.....	785	832	832
Washington.....	727	774	774
U.S. Field.....	57	57	57
Foreign Field.....	1	1	1
Total.....	785	832	832

LAND AND NATURAL RESOURCES DIVISION



Approved: *William F. French* Date: 1/19/94  
 William F. French, Jr.  
 Attorney General

Land and Natural Resources Division  
Salaries and Expenses, General Legal Activities

Crosswalk of 1985 Charges  
(Dollars in thousands)

Decision Unit	1985 President's Budget		Congressional Appropriation Actions on 1985 Request		Reprogramming		1985 Pay Supplemental Requested Amount		Proposed Rescission		1985 Appropriation Anticipated	
	Pos.	WT Amt.	Pos.	WT Amt.	Pos.	WT Amt.	Pos.	WT Amt.	Pos.	WT Amt.	Pos.	WT Amt.
1. Federal Appellate Activity..	27	28 \$ 1,475	...	...	...	...	...	...	-42	27	28 \$ 1,484	
2. Land Acquisition.....	54	49 2,936	...	...	...	...	...	...	-4	54	49 2,949	
3. Environmental Protection....	132	130 7,421	...	...	...	...	...	...	-16	132	130 7,455	
4. General Litigation.....	93	95 5,730	...	...	...	...	...	...	-13	111	95 5,750	
5. Management and Administration	41	36 5,032	...	...	...	...	...	...	-1	42	36 5,079	
Total	347	338 22,594	...	...	...	...	...	...	-36	347	338 22,317	

Explanation of Congressional Action

A requested increase of \$325,000 for ADP was denied. In addition, SLJC availability was reduced by \$285,000.

Explanation of Reprogramming

A reprogramming of \$5,000 is necessary to fund the closeout of the Independent Counsel in 1985.

Explanation of Supplemental

The pay request provides \$374,000 to meet increased pay requirements. (Executive Order 12496)

Explanation of Proposed Rescission

In accordance with Section 2901 of the Deficit Reduction Act, \$36,000 is proposed for rescission in the travel and transportation area.

Land and Natural Resources Division  
Salaries and Expenses, General Legal Activities  
Summary of Requirements  
(Dollars in thousands)

	1984 Actual		1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
<u>Adjustments to base:</u>										
1985 as enacted .....	329	\$19,696	347	\$22,317	347	\$22,580	347	\$22,227	...	-\$353
Supplemental requested:										
1985 Pay supplemental requested .....										374
Reprogramming to Independent Counsel .....										-5
Proposed Rescission .....										-36
1985 appropriation anticipated .....										22,317
Savings resulting from management initiatives .....										-495
Uncontrollable increases .....										+758
1986 base .....	347		347		347		347		338	\$22,580
<u>Estimates by budget activity</u>										
Land, Natural resources and Indian matters	329	\$19,696	347	\$22,317	347	\$22,580	347	\$22,227	...	-\$353
Allocation from the Environmental Protection Agency: Superfund	...	42	...	62	...	62	...	87	...	25
Total PTE Ceiling	370		400		400		425		25	

Land and Natural Resources Division

Salaries and expenses

Summary of Adjustments to Base  
(Dollars in thousands)

	Perm. Pos.	Work- years	Amount
1985 as enacted.....	347	338	\$21,984
1985 Supplemental requested:			
Pay Increase supplemental requested:			
Increased pay costs.....			Amount
Amount absorbed.....			\$392
Net pay supplemental.....			-18
Reprogramming to Independent Counsel.....	...	...	374
Proposed Reassignment.....	...	...	-5
	...	...	-36
1985 appropriation anticipated.....	347	338	22,317
Adjustments to base:			
Savings resulting from management initiatives.....	...	...	-495
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....	...	...	55
Restoration of Independent Counsel funds to Divisions.....	...	...	5
Annualization of 1985 pay increases.....	...	...	227
Within-grade increases.....	...	...	130
Health Benefits.....	...	...	26
GPO printing costs.....	...	...	9
GSA recurring reimbursable services.....	...	...	5
Federal Telecommunications Systems (FIS) rate increase.....	...	...	25
Departmental telecommunications.....	...	...	49
Automated legal research and litigation support.....	...	...	20
General pricing level adjustment.....	...	...	207
Total, uncontrollable increases.....	347	338	758
1986 base.....	347	338	\$22,580

Land and Natural Resources Division  
Salaries and Expenses, General Legal Activities

Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1984 as Enacted			1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount
Federal appellate activity.....	27	28	\$1,355	27	28	\$1,465	27	28	\$1,404	27	28	\$1,494	27	28	\$1,494	...	...	...
Land acquisition.....	54	49	2,748	54	47	2,527	54	49	2,949	54	49	2,977	54	49	2,977	...	...	...
Environmental protection.....	114	112	6,017	114	111	6,018	132	130	7,455	132	130	7,515	132	130	7,515	...	...	...
General litigation.....	93	95	5,375	93	94	5,440	93	95	5,750	93	95	5,805	93	95	5,805	...	...	...
Management and administration...	41	36	4,338	41	34	4,246	41	36	4,679	41	36	4,789	41	36	4,436	...	...	...
Total.....	329	320	19,833	329	328	19,696	347	338	22,317	347	338	22,580	347	338	22,227	...	...	...
Allocation workyears.....	42	42		42	42		62	62		62	62		87	87		25	25	
FTE Ceiling.....	362	362		370	370		400	400		400	400		425	425		25	25	
Other Workyears																		
Overtime.....		5		5	5		5	5		5	5		5	5		...	...	...
Total compensable workyears.....	367	367		375	375		405	405		405	405		430	430		...	...	...

Land and Natural Resources Division  
Salaries and Expenses, General Legal Activities

Justification of Program and Performance  
Activity Resource Summary  
(Dollars in Thousands)

Activity: Land and Natural Resources and Indian matters	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated									Perm.		
	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Pos.	WY	Amount
Federal Appellate Activity	27	28	\$ 1,484	27	28	\$ 1,494	27	28	\$ 1,494	...	...	...
Land Acquisition	54	49	2,949	54	49	2,977	54	49	2,977	...	...	...
Environmental Protection	132	130	7,455	132	130	7,515	132	130	7,515	...	...	...
General Litigation	93	95	5,750	93	95	5,805	93	95	5,805	...	...	...
Management and Administration	41	36	4,679	41	36	4,789	41	36	4,436	...	...	...
TOTAL	347	338	22,317	347	338	22,500	347	338	22,227	...	...	...

The Land and Natural Resources Division represents the United States at the request of various client agencies, principally the Departments of Agriculture and the Interior, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration and the Army Corps of Engineers. Cases concern the Federal Government's acquisition, management, protection and disposition of land and natural resources within the territorial limits of the United States, on or over the outer continental shelf of the United States, and, within the constraints of international law, in or under the high seas. This litigation, conducted in both Federal and state courts, includes civil and criminal matters relating to several broad areas such as the exploration and development of minerals and energy resources from Federal lands, the control of pollution and hazardous waste, the conservation of wetlands and wildlife, and the protection of the physical environment. In addition, the Division handles litigation on behalf of Indian tribes to protect and defend their property, hunting, fishing, and water rights. The Division also defends the United States against claims by Indian tribes which contend that they received inadequate compensation for, or unfair treatment with respect to, land and natural resources which the Federal government has acquired from them or administers on their behalf.

Federal appellate activity .....	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated									Perm.		
	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Pos.	WY	Amount
Federal appellate activity .....	27	28	\$ 1,484	27	28	\$ 1,494	27	28	\$ 1,494	...	...	...

Long-Range Goal: To maintain the existing level of high-quality appellate advocacy in the face of a substantial workload.



Major Objectives:

- To handle cases on appeal with high-quality appellate advocacy.
  - To file appeals from adverse decisions in all cases where appellate review is warranted.
  - To fully satisfy our client agencies through the formulation of legal positions in the courts of appeals that best represent their interests.
  - To participate as amicus curiae in selected cases which have a significant impact on the positions and policies of the Division and its client agencies.
  - To provide the Office of the Solicitor General with the initial draft for those cases in which the unit has had appellate responsibility and which have reached the Supreme Court.
- Base Program Description: This unit addresses the problem of handling Land and Natural Resources Division cases that are appealed to federal courts of appeals or brought to the United States Supreme Court. The problem of meeting the demands is resolved by satisfying four discrete obligations.
- First, there is the function of providing appellate advocacy which is the unit's most fundamental responsibility. The decision unit prepares briefs and provides oral argument on virtually all of the Division's cases on appeal. Litigation handled in the decision unit involves a wide variety of cases ranging from fast-moving environmental matters to traditional government litigation concerning various federal property interests. For example, the appellate program is responsible for litigation in the courts of appeals involving the National Environmental Policy Act, the Resource Conservation and Recovery Act, the Mineral Leasing Act, the Federal Land Policy and Management Act, the Outer Continental Shelf Lands Act, as well as cases pertaining to the federal law of eminent domain, Indian law and water law.
- The second function performed by the unit involves analyzing unfavorable district court decisions and preparing memoranda for the Solicitor General which seek authorization to appeal those cases that merit courts of appeals review. This function, unique to appellate practice, involves solicitation and evaluation of recommendations regarding appeal from client agencies, trial sections and United States Attorneys' offices. It is designed to screen from the overloaded courts of appeals those cases which do not warrant appellate review and serves to coordinate Division-wide policy on important questions of federal law that would be binding upon the government.
- The preparation of the initial drafts for those cases in which the unit has had responsibility on appeal and which have reached the Supreme Court is the third function performed by this decision unit. This critical function enables the Solicitor General's office to keep pace with its responsibilities; [that office has often cited our assistance as critical.] Performance of this function not only aids the Solicitor General, but also enables this decision unit to better serve its client agencies through the formulation of a draft brief by the appellate attorney who is most familiar with the facts and the legal issues presented by that case.

Division-wide coordination of cases, which is unique to the unit, is the fourth function. Because all of the Division's cases on appeal pass through the unit, it is in a pivotal position to effect such coordination. Presently, matters on appeal will affect more than one trial section because of their overlapping legal significance. The unit attorneys, therefore, routinely serve as a clearinghouse mechanism. Unless the unit continues to perform this responsibility, the obligation for such coordination will fall directly upon the Assistant Attorney General.

Accomplishments and Workload: The accomplishments of the Appellate program are presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
Cases received .....	383	342	395	440
Cases closed .....	394	327	400	410
Cases pending, end-of-year .....	826	841	836	866
Briefs filed .....	332	334	365	375
Oral arguments .....	150	154	185	195
Solicitor General memos .....	168	158	200	210
Substantive motions .....	177	184	185	190

The projected workload of 440 incoming cases for 1986 would not vary with the unit's resources with respect to its two categories of incoming matters, i.e., discretionary appeals and nondiscretionary appeals. This is so because the unit remains responsible for discretionary matters (cases in which the United States has received an adverse lower court decision and cases in which the unit has been requested to participate *amicus curiae*) regardless of whether an appeal ultimately will be taken, or *amicus curiae* participation is desirable. Each incoming matter which is "discretionary" must be reviewed and analyzed for issues which warrant an appeal or *amicus curiae* participation and a comprehensive recommendation for the Solicitor General must be prepared, taking into consideration the solicited recommendations from client-agencies, trial sections and United States Attorneys. Therefore, the projected number of incoming cases is based upon past levels of increases, enhanced by a greater number of challenges to the initiatives and new programs of Interior, the Federal Aviation Agency, and the Environmental Protection Agency, particularly with respect to existing and recently-enacted environmental statutes. For example, the unit anticipates an increase in appeals arising from the Division's environmental enforcement efforts. These cases present significant issues of first impression in the courts of appeals, and will necessarily require additional, time-consuming preparation and coordination. Moreover, as a result of the Supreme Court's decision in *Arizona v. San Carlos Apache Tribe*, 103 S.Ct. 3201 (1983), the unit will handle a growing number of lengthy, complex state court matters involving the adjudication of water rights as these matters move through intermediate courts of appeals. Finally, the unit is currently receiving a growing number of petitions for review in a new category of Federal Aviation Administration cases. These petitions challenge a statutory-imposed deadline on the use of certain types of carriers. Notably, additional deadlines are forthcoming covering other types of equipment; further litigation is expected in this area as well.

The unit has maintained its ability to achieve substantial success in its main objective, appellate advocacy. In a number of high-priority cases, the courts adopted the positions advocated by the unit in all but two cases. In particular, the unit achieved success in issues arising under the National Environmental Policy Act, the Clean Air Act, and the Resources Conservation and Recovery Act, as well as in important matters involving pesticide regulation, ocean dumping and regulation of water projects. For example, the unit invested a substantial amount of time in a fast-moving, high-priority matter involving the Navy's ability to provide communications to the Nation's submarine fleet. *Wisconsin v. Weinberger*, 7th Cir., No. 84-1569, Aug. 20, 1984. There, the unit was successful in convincing the Seventh Circuit to reverse a district court decision which enjoined the Navy from constructing an extremely low frequency (ELF) radio communications project and from supplying submarines with ELF receivers. In addition, in the field of eminent domain law, the Supreme Court granted the United States' petition for certiorari and reversed the decision of the Fifth Circuit in *United States v. City of Duranville*, S. Ct., No. 83-1170, Dec. 4, 1984. The Court ruled, 9-0, that the Fifth Amendment does not require the United States to pay a public condemnee compensation measured by the cost of acquiring a substitute facility that the condemnee has a duty to acquire, when the market value of the condemned property is ascertainable and when there is no showing of manifest injustice. In *Carson-Truckee Water Conservancy District v. Clark*, the Ninth Circuit ruled that the Secretary of Interior was no obligated by the Endangered Species Act to use all the water produced by a federal reclamation project to enhance the recovery of protected species of fish.

The unit has enjoyed an outstanding measure of success in cases assigned to it for handling in the courts of appeals in large measure because of the creation of an institutional mechanism to insure the continued high quality of its work product. This mechanism which entails the designation of six senior reviewing attorneys to provide in-depth review of each case, has enabled the unit to enjoy an overall success rate of 80 percent. Moreover, the unit achieved noteworthy success in obtaining reversals from adverse decisions in 75 percent of its cases. This success rate is more than three times the rate of the average litigant in the courts of appeals.

	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Land Acquisition.....	54	49 \$2,949	54	49 \$2,977	54	49 \$2,977	...	...

Long-Range Goal: To acquire land for Congressionally authorized public purposes through the institution and prosecution of condemnation proceedings and in the course thereof to provide the United States the highest quality legal representation.

Major Objectives:

To secure the lowest possible compensation awards consonant with fairness to both the landowners and the Government.

To achieve and maintain a current status in the condemnation caseload (i.e., to reduce the pending caseload to the point where the backlog does not exceed annual input and to maintain that balance thereafter).

**Base Program Description:** The national problem addressed by the decision unit is the need of the U.S. Government to acquire lands necessary for public purposes where the landowners are unwilling or unable to sell the lands to the U.S. This unit meets this problem through the institution and prosecution of condemnation proceedings in U.S. district courts by which lands necessary for Congressionally authorized public purposes are acquired on behalf of the U.S., its agencies and departments through the exercise of the sovereign power of eminent domain.

By means of this unit, lands which cannot be acquired by direct purchase are acquired by judicial condemnation proceedings in which compensation is determined and awarded to property owners. Acquisition by condemnation is a means of last resort; acquiring agencies are required by law (42 U.S.C. Sec. 4651) to make every reasonable effort to acquire a property by negotiation before requesting condemnation.

The tracts of land referred for acquisition by condemnation are tracts that cannot be acquired by other means because of the unwillingness of owners to sell at a price considered fair and reasonable by the government or because defects in title preclude acquisition by direct purchase. Unless the government is able to acquire these lands by an exercise of the power of eminent domain, the public purpose for which the lands are necessary would be frustrated.

Responsibility for the prosecution of condemnation cases is shared between this unit and the U.S. Attorneys. All requests by client agencies for the institution of condemnation proceedings are made to the Attorney General and are referred to the program, which then initially determines whether the case should more appropriately be: (1) assigned to a U.S. Attorney; (2) designated as a case to be handled as the joint responsibility of a U.S. Attorney and the unit, or (3) retained by the unit for its direct handling. In the category of joint responsibility, the unit's participation in cases varies with circumstances and may range from mere advice and counsel to actual conduct of the trial.

**Accomplishments and Workload:** The accomplishments of this program are presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
Tracts received .....	1,328	910	900	900
Tracts closed .....	3,811	3,804	3,000	3,000
Tracts pending, end-of-year .....	11,646	8,752	6,652	4,552
Percentage by which judgments exceed government's appraisal/testimony .....	25%	41%	25%	25%
Percentage of total dollar claims in excess of conceded liability saved .....	91%	69%	90%	90%

## Actual Performance Data Expressed in Dollars

	1983	1984
Owner's Appraisal/Testimony ("Claims")		
Government's Appraisal/Testimony ("Conceded Liability")	\$360,478,000	\$150,817,000
Judgments	93,671,000	64,861,000
Amount by which Judgments Exceeded Government's Appraisal/Testimony	117,231,000	91,797,000
Amount of Total Claims in Excess of Conceded Liability	23,560,000	26,936,000
Amount of Total Claims in Excess of Conceded Liability Saved	266,807,000	85,956,000
	243,247,000	59,020,000

In 1984 the number of tracts closed slightly exceeded our estimate of 3,800. For 1985 and 1986 we estimate fewer tracts closed because of the near completion of the Big Cypress National Preserve project, Florida, which generated large numbers over the past eight years (over 12,000 tracts) through its large-scale settlement program and mass trials. Tracts received in 1984 were below our estimate of 1,400, due largely to a decrease in National Park Service acquisitions. Tracts received estimates for 1985 and 1986 are based on tracts received in 1984 and projections from first quarter 1985 data.

Performance measured by (a) the percentage by which judgments exceed government's appraisal/testimony and (b) percentage of total dollar claims in excess of conceded liability saved did not attain the estimated level nor the 1983 level on which the estimate was based, though it still surpasses that of 1982, when those measures were 56% or 55%, respectively. Because of the vagaries of litigation, year-to-year fluctuations in these performance measures are to be expected. Our estimates of performance under these two measures for 1985 and 1986 are consonant with our aim of striving to duplicate the excellent results attained in 1983.

1985 Appropriation	Anticipated		1986 Base		1986 Estimate		Increase/Decrease	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
Environmental Protection.....	132	130	\$7,455	132	130	\$7,515	132	\$7,515
							...	...

Long-Range Goal: This decision unit addresses through litigation the national problem of air, water and hazardous waste pollution, and the exploitation of, and illegal commerce in, the nation's wildlife and marine resources. Responsibility encompasses the evaluation, supervision, and trial of civil and criminal enforcement cases as well as the defense of vital federal programs, regulations and policies designed to protect the environment. The unit seeks to ensure compliance with the statutory requirements of its clients' programs and to establish a credible deterrent against their violation, to obtain injunctive relief, to abate violations and to recover monetary penalties for past violations of the law.

Major Objectives:

- To defend client agencies' rules and regulations in order to maintain the integrity of those agencies' programs.
- To defend client agencies whose facilities and activities are the subject of environmental litigation initiated by states, municipalities, or private individuals and organizations.
- To handle collateral suits to allow agency enforcement programs to operate effectively and without undue delay.
- To maintain the coherent operation of agency programs through sustaining agency actions in court.
- To litigate the environmental enforcement cases which are sent to the unit by referring agencies.
- To maintain voluntary compliance among regulated industries which, although not audited, know that they are subject to enforcement actions if violations are discovered.
- To bring suits against corporate polluters as national corporate entities, where appropriate, rather than simply looking at pollution problems from a regional basis.
- To obtain a large portion of the monetary and remedial relief sought in cases brought by this decision unit.
- To increase criminal prosecution of serious environmental offenses.
- To implement a successful enforcement program to clean up existing hazardous waste dump and storage sites and to abate radiation hazards.
- To seek recovery on behalf of federal agencies for damages to natural resources within their control.
- To create a capability for and an atmosphere conducive to negotiated settlement of disputes where such an approach provides swifter and more certain relief.
- To enforce and sustain administrative orders issued by client agencies in furtherance of the agencies' statutes and mandates.
- To improve the enforcement of the laws relating to trade in wildlife, fish and plants.
- To investigate, coordinate investigations, and successfully prosecute major commercial dealers illegally trafficking in wildlife, fish or plants.

To seek and obtain stiff penalties for persons who engage in illegal wildlife or plant trade including jail sentence for principle violators.

To supply quality representation to client agencies, and the litigative support necessary to defend the administration of civil programs affecting wildlife, fish and plants.

**Base Program Description:** In the area of Environmental Defense, the unit is responsible for three major categories of litigation. These categories are: 1) the defense of the programs, regulations, policies and decisions of the Environmental Protection Agency (EPA); 2) the defense of federal agencies in suits brought to abate or clean pollution allegedly emanating from federally owned or leased facilities and installations; and 3) litigation pertaining to the regulatory programs of the Army Corps of Engineers for the disposal of dredge and fill materials into the navigable waters and wetlands of the United States.

Litigation on behalf of EPA comprises the major portion of the defensive workload. By statute, some challenges to EPA regulations are filed originally in the court of appeals. These typically involve challenges to: 1) EPA rules and regulations promulgated under various statutes such as the Clean Air Act, Clean Water Act and Resource Conservation and Recovery Act (RCRA); 2) EPA's approval or disapproval of programs delegated to the states for implementation pursuant to federal statutes (e.g., approval of state plans to control air pollution or state programs to implement RCRA); and 3) grants or denials of individuals permits to engage in certain kinds of activities (e.g., permits to discharge pollutants into waters of the United States). These challenges are brought by both industry and environmental groups.

Generally speaking, all cases involving EPA which cannot be filed directly in the courts of appeals are filed in the district courts. These cases range from suits to compel EPA to implement regulatory programs required by various statutes to challenges to the agency's allocation of grants to construct publicly owned sewage treatment plants. Depending on the nature of individual cases, the litigation may consist of preparing briefs in support of motions to dismiss a case prior to trial, or an extensive trial on the merits after a lengthy period of discovery by both sides.

The second category of defensive litigation is suits against federal agencies charged with violations of federal, state, or local laws governing the abatement and control of pollution. Although cases involving the military departments constitute the majority of the cases on the docket, a number of non-defense agencies have been represented, ranging from the Veterans Administration to the Federal Reserve Bank. Because of the sensitivity of these cases and potential government exposure, they are usually handled exclusively by unit attorneys. As examples, in New York v. United States Air Force, potential government exposure is \$40 million and in Mola Development Corp. v. United States, \$15 million.

The litigation in the third category is conducted on behalf of the Corps of Engineers. These cases typically involve either defensive cases in the district court, in which a party challenges regulations or permits issued by the Corps, or enforcement actions in which the government prosecutes a party for violations of the statutes administered by the Corps.

In the area of Environmental Enforcement, the unit is responsible for litigation to support the control, abatement and reduction of pollution to the nation's air and water resources, the abatement and control of hazardous waste dump sites, the regulation and control of pesticides and noise, the regulation of toxic and hazardous substances, and miscellaneous matters pertaining to nuclear power. This program entails both civil litigation on behalf of client agencies, and criminal litigation under the various pollution control statutes.

Civil cases are referred to the section by client agencies, which are responsible for initial case investigation and development and for determining the appropriate technical remedy. A unit attorney acts as lead counsel for the government, which entails responsibility for case strategy and management. Under the Clean Air and Clean Water Acts, civil actions are filed to gain injunctive relief, and civil penalties are sought for violations. The Resource Conservation and Recovery Act (RCRA) regulatory program, which requires producers of hazardous substances to dispatch wastes only to permitted facilities, may be enforced through an administrative hearing process or through litigation in the federal courts. The decision unit's hazardous waste docket under RCRA expanded in 1984 as a result of significantly increased enforcement efforts by EPA.

While most hazardous waste cases under the Comprehensive Environmental Response, Compensation and Liability Act (Superfund) are funded by a transfer appropriation from EPA, the unit also is responsible for litigation in this area involving federal agencies other than EPA. Under this statute, federal agencies may recover monies expended to address toxic substances problems on agency property, and they may seek recovery for damages to natural resources under their trusteeship. In 1984, the unit began to develop several such cases from the Department of Defense, which is presently analyzing 434 additional sites for possible remedial action.

That part of the unit's work under Superfund which is funded by a transfer appropriation from EPA includes both enforcement and defensive litigation. This involves counseling on and defense of challenged administrative orders, institution of suits to compel removal and remedial actions, actions to recover response costs incurred by the Fund, defense of claims against the Fund, challenges to administrative orders issued to secure the cleanup of contaminated sites, and challenges to regulations promulgated pursuant to the Act. The unit has defended several major lawsuits arising under the Act, including challenges to the National Priorities List, actions seeking review of notice letters to potentially responsible parties, pre-enforcement review of administrative orders, and efforts to enjoin EPA emergency cleanup actions under Section 104. Under Superfund, the Administration and Congress have endorsed a strong enforcement role to make those responsible pay for cleanup and to assure that the Fund is solvent. EPA has identified 16,585 potential waste sites and has included over 700 sites on its priority list. Cost recovery cases are particularly important to the program because the Superfund is a revolving fund and recovered funds will be the monies for the cleanup of many other sites. For 1985, EPA has approved a level of 79 workyears, an increase of 17 over the 1984 level.

Environmental enforcement cases are among the most complex matters addressed by the United States in litigation. Because of their legal, technical and scientific complexity, and the substantial factual development associated with them, environmental enforcement cases are extremely resource intensive. Even moderately complex enforcement cases almost always necessitate the assignment of more than one unit attorney. The scope of these matters was illustrated by the unit's activities in enforcing the Clean Air Act's provisions regulating the steel industry. After months of discovery and protracted negotiations with steel industry representatives, agreement was reached requiring capital expenditures of nearly \$200 million, and over \$25 million in penalties.



The burgeoning area of criminal enforcement remains a top priority. This highly visible initiative, first established in 1982, continues to receive favorable public support and congressional interest. Until 1981, EPA lacked any meaningful investigative capacity to develop criminal cases and to support prosecutions with technical expertise. In 1982, EPA's Criminal Enforcement Division became operational. To support criminal cases referred by the Environmental Protection Agency, an Environmental Crimes Unit (ECU) was developed in the decision unit and staffed by five attorneys experienced in both criminal and environmental law. In 1984, EPA's Criminal Enforcement Division expanded its resources by 40%, resulting in a direct increase in the quality and quantity of cases referred for prosecution. As a result, more individuals were indicted (43) and more convictions obtained (32) in 1984 than in all previous years combined. The number of cases and their complexity are expected to increase as the program matures.

In the area of Wildlife and Marine Resources, the unit has responsibility for criminal litigation arising from illegal trade in plants and wildlife, which has an estimated value of \$50 to \$100 million. Most of this trade is accomplished through falsification of the documentation that must accompany wildlife imports. A lesser but still substantial percentage of the trade is accomplished through straight smuggling. Profits on these shipments are staggering, as illustrated by a current international enforcement case involving exotic birds illegally exported from Indonesia, where they were purchased for a few hundred dollars, and were to be sold here for \$8,000 to \$10,000 each. The unit also has responsibility for representing the federal government in most civil actions arising under the nation's wildlife laws, which often affect projects of major economic and environmental importance to the nation, such as oil refineries, dams, mineral leasing activities and real estate developments.

Violations of the wildlife laws are treated as major "white collar" crimes, meriting substantial criminal penalties. Among the statutes under the unit's jurisdiction are the Endangered Species Act, 16 U.S.C. 1531-1540, the Lacey Act, 16 U.S.C. 3371 et seq., Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., Marine Mammal Protection Act, 16 U.S.C. 1361 et seq., the Airborne Hunting Act, 16 U.S.C. 742j-2, the Migratory Bird Treaty Act, 16 U.S.C. 701-711, and the Bald and Golden Eagle Act, 16 U.S.C. 1801-1882. The unit also is responsible for prosecuting violators of the customs laws whenever wildlife is involved.

Accomplishments and Workload: Accomplishments of the Environmental Protection program are presented in the following table:

Item	Estimates		
	1983	1984	1985
<b>ENVIRONMENTAL PROTECTION</b>			
Cases/Matters pending, beginning of year	2,083	2,047	2,108
Cases/Matters Received	406	505	591
Cases/Matters Closed	442	444	463
Cases/Matters pending, end of year	2,047	2,108	2,236
			2,445

Item

1983 1984 Estimates  
1985 1986

## WILDLIFE AND MARINE RESOURCES

Cases/Matters pending, beginning of year	313	428	550	625
Cases/Matters Received	199	253	275	300
Cases/Matters Closed	84	131	200	250
Cases/Matters Pending, end of year	428	550	625	675

## TOTAL

Cases/Matters pending, beginning of year	2,396	2,475	2,658	2,861
Cases/Matters Received	605	758	866	972
Cases/Matters Closed	526	575	663	713
Cases/Matters pending, end of year	2,475	2,658	2,861	3,120

The unit's accomplishments in defensive litigation are best understood by describing some of the significant cases concluded in 1984. In NRDC v. Chevron and EPA (S.Ct.) the unit successfully defended EPA's initiative to measure the combined air emissions from each plant, to allow, in effect, an offset of individual emissions as long as the whole plant was in compliance with Clean Air Act standards. The Supreme Court, in accepting this "bubble" concept, strongly reaffirmed the concept of judicial deference to agency interpretations. The high court's confirmation of this principle provides assistance not only to the unit's defensive litigation, but to administrative practice and federal programs defensive litigation throughout the government.

Several other important cases also were decided under the Clean Air Act. The D.C. Circuit approved in broad measure EPA's regulations establishing the in-use performance of motor vehicles with respect to emission standards in Motor Vehicle Manufacturers Association v. Costle, Automotive Part Remanufacturers Association v. EPA, and Motor Vehicle Manufacturers Association v. Ruckelshaus. Section 207 of the Act required motor vehicle manufacturers to provide consumers with a performance warranty ensuring that each vehicle will meet the applicable emission standards throughout its useful life. The court upheld both the performance warranty and parts certification regulations against challenges that the regulations exceeded EPA's authority under Title II.

In the Claims Court, the unit has successfully continued to narrow the United States' liability for reimbursing private parties for the costs of cleaning up oil and hazardous substances spills. Because the plaintiff in Cities Service Pipeline Co. v. United States failed to exercise due care in protecting against the risk of pipeline rupture, the court was persuaded that the United States should not be required to reimburse the plaintiff for the costs it incurred in the cleanup of a resulting oil spill.

The unit also has responsibility for enforcing the Clean Water Act and Rivers and Harbors Act, both of which deal with the discharge of dredged and fill materials into waters of the United States. In United States v. Tull, the unit obtained the largest civil penalty to date (\$325,000) for violations of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. The court provided that a portion of the penalty (\$250,000) would be remitted if the defendant restored certain areas within one year. Substantial fines and restoration orders in these cases play an important role in encouraging voluntary compliance with the law.

In addition, the unit recently settled National Wildlife Federation v. Marsh, a challenge by 16 environmental plaintiffs to the Corps of Engineers' interim regulations implementing the permit program under the Clean Water Act. These regulations expanded the use of general permits issued through rulemaking to cover many of the 100,000 regulated activities which occur annually under this program. The settlement requires the Corps to propose new regulations, but preserves the Administration's desire to streamline this program and reduce its impact on the regulated public.

The unit has also undertaken defense of GSA in Cadillac Fairview v. Dow Chemical, a case which will be a major defensive effort over the next year and perhaps beyond. Cadillac Fairview purchased a piece of property for development purposes. Subsequently, it was discovered that the land had been contaminated with industrial wastes used for the manufacture of synthetic rubber during World War II and the Korean War. Cadillac Fairview sued four past owners and operators, including GSA, as responsible parties under CERCLA. GSA is being sued as the successor in interest to the Reconstruction Finance Corporation and three other federal corporations. The complaint further alleges common law causes of action involving negligence and strict liability. Two examples of the successful defense in similar federal facilities cases are State of California v. Walters, in which the court dismissed criminal environmental counts against the Veterans' Administration, and State of Massachusetts v. United States Air Force, in which a settlement negotiated by unit attorneys saved the government substantial money and preserved liability arguments for future toxic waste site cases involving federal defendants.

In the civil enforcement area, major initiatives by the unit included the enforcement of the Clean Air Act and Clean Water Act against state and local governmental units, continued enforcement of the Clean Air Act against the steel industry, initiation of Toxic Substances Control Act (TSCA) enforcement, Resource Conservation and Recovery Act (RCRA) litigation, and beginning the representation of non-EPA clients (including DOD and Commerce) in the hazardous waste area.

In 1984, prosecuting civil enforcement actions against states and municipalities under the Clean Water Act (CWA) and Clean Air Act (CAA) was a major focus of the unit. EPA has renewed its efforts to require governmental bodies to comply with the December 31, 1982 CAA deadline, and bringing municipalities into compliance with the CAA is EPA's highest priority under that statute. The CWA requires all publicly owned treatment works (POTWs) to meet the statutory compliance deadlines and to achieve the water quality requirements of the Act, whether or not they receive federal funds. In January 1984, the Administrator of EPA approved a national municipal policy which embodies the goal of obtaining compliance by POTWs as soon as possible but not later than July 1, 1988.

A matter handled by the unit under the CMA is typical of these CMA and CMA cases. In the City of Providence (D.R.I.) case, the Judge recently awarded stipulated penalties in the amount of \$662,500 for the city's violations of a Clean Air Act consent decree entered on May 9, 1978. The decree required the city to develop an environmentally sound method of sewage disposal and to complete reconstruction of an incinerator at one of its wastewater treatment plants. The city also was required to operate the incinerator in compliance with federal regulations under the Clean Air Act. The court has directed the parties to discuss the possibility of a reduction of the award to avoid unduly penalizing the citizens of Providence for the recalcitrance of their city managers.

Enforcement of the CMA and CMA against municipalities is often complicated by similar issues of financial solvency. However, the unit was successful in United States v. St. Bernard Parish and State of Louisiana (E.D. La.) in negotiating a settlement agreement which requires short and long term compliance measures without federal funding. A similar complaint against South Essex Sewerage District (D. Mass.) resulted in an order to abate sludge discharges, once again, without any grant assistance.

In February 1984, the unit filed a major Toxic Substances Control Act (TSCA) enforcement action against Commonwealth Edison Company, seeking to compel cleanup of numerous Northern Illinois sites contaminated by toxic polychlorinated biphenyl (PCB) fluids discharged from the company's pole-mounted electrical equipment. This suit is the first in a series of test cases which EPA is developing. On December 3, 1984, the parties to the administrative proceeding announced an agreement in principle to resolve the civil penalty proceeding. Under the agreement in principle, Edison will pay a civil penalty of \$80,000 for the four sites involved. The settlement agreement will include stipulations and attachments which document the releases, Edison's response efforts, and the residual PCB levels allowable at each site.

The Department has filed a number of suits under Superfund on behalf of various federal agencies (other than EPA) seeking to recover funds for damages to natural resources within the trusteeship of those agencies. The unit's work for these agencies is not funded by EPA. The most significant of these cases is United States v. Shell Oil Co., which the unit filed on behalf of the Department of the Army, relating to natural resources damages at Rocky Mountain Arsenal in Colorado. The suit asserts that Shell's pesticide manufacturing activities at the Arsenal made it liable for damages up to \$1.8 billion. The complaint asserts claims under CERCLA §107, restitution for cost recovery, and a declaratory judgment for Shell's liability for future costs. Under CERCLA §106, Shell is liable for damages to natural resources, damages for breach of lease and related agreements, and for damage and injunctive relief for trespass, private nuisance, negligence and strict liability for an ultra-hazardous activity. This is a precedential case in which many important questions of statutory construction will be answered and in which the financial stake is high.

In the area of criminal enforcement, the unit recently concluded several noteworthy prosecutions. In May 1984, three officers of Dyn Recovery, Inc., were convicted of numerous violations of the Toxic Substances Materials Transportation Act, CERCLA and the Hazardous Materials Transportation Act (HMTA). The president of the corporation was sentenced to a one-year prison term on the CERCLA count, five years probation on the HMTA count, and was ordered to pay a final third of cleanup restitution. As part of his probation, the president was prohibited from engaging in the hazardous waste business for five years. The vice-president of the corporation was sentenced to a 90-day jail term and five years probation and also ordered to make a one-third

restitution. In a Toxic Substances Control Act prosecution, a jury in Idaho returned a three count conviction against Pacific Hide and Fur Depot. This case is currently on appeal, as is the jury verdict in the Hayes International case for an eight count conviction for transporting hazardous waste. The appeal of the Johnson and Toner case to the Third Circuit was successfully resolved in the government's favor after the District Court's dismissal of counts limiting the individuals who could be charged with discharging of hazardous wastes without a permit.

This year saw an increase in the number of cases involving the illegal handling of toxic and hazardous waste as a result of our emphasis on prosecuting these crimes. Of the 21 cases to be prosecuted this year, 16 involved hazardous or toxic waste. Other cases involved the Clean Water Act and the first case involving the Clean Air Act. Fines have ranged from \$2,000 to \$250,000 and jail sentences have ranged from 6 months to 2-1/2 years over the course of a two year period.

The accomplishments of the wildlife program are most clearly represented by the significant decisions obtained and the substantial sentences imposed in recent cases. In a series of cases in the Western District of Louisiana (*United States v. Odeaux, et al.*), unit lawyers have indicted and convicted participants in the widespread illegal use of the pesticide Aldrin on rice fields to kill migratory birds. Defendants are farm supply businesses which purveyed this highly toxic substance during the rice farming season with full knowledge of the use to which it would be put. Several of the defendants have been sentenced to jail, and all have paid significant fines. A similar group of cases involves defendants who sold large volumes of the more dangerous pesticide, Aldrin, for this illegal use.

Perhaps the unit's most important prosecutions to date commenced in late 1984 against numerous individuals involved in the unlawful capture and trade of falcons and other birds of prey (*United States v. Gieselski, et al.*). The evidence adduced at trials and in guilty plea statements has shown widespread abuse of these birds. International traffic in falcons and other raptors may command 6-figure prices in black markets in Europe and the Middle East. More than 30 defendants have been convicted so far. These cases parallel the unit's efforts to deter and/or penalize those who are smuggling exotic birds out of developing countries for market in the United States. One notable success in 1984 came in *United States v. 100 Black Palm Cockatoos*, where an illegal shipment worth over \$1,000,000 was forfeited to the government. The unit also indicted 40 defendants (*United States v. Ellison, et al.*) engaged in illegal big game hunting in and around Yellowstone National Park, and in the black market trade of valuable skins and trophies from endangered species.

In the area of otvil wildlife and marine resources litigation, the unit has competently defended a variety of suits, including the Secretary of the Interior's authority to allow commercial import of kangaroos under the Endangered Species Act (*Defenders of Wildlife v. Watt*); Interior's regulations for the hunting of allegedly declining black duck populations (*Humane Society v. Watt*); limited deer hunting in wildlife refuges (*Defenders of Wildlife v. Watt*); Interior's decision regarding export of bobcat pelts (*Defenders of Wildlife v. Watt*); the decision of the Forest Service to allow exploratory drilling for minerals in the Cabinet Mountains Wilderness (Cabinet Mountains Wilderness/Scottman's Peak Grizzly Bears v. Peterson); and, the Department of Commerce regulation of the tuna industry to reduce porpoise mortality (*Balelo v. Baldridge and American Tunaboat Ass'n v. Baldridge*). In addition, the unit successfully defended important fishery management plans implemented by the Department of Commerce for pelagic species (*Florida v. Baldridge*), and salmon (*Pacific Coast Federation v. Baldridge*; and *Confederated Tribes v. Baldridge*).

1985 Appropriation	Anticipated		1986 Base		1986 Estimate		Increase/Decrease					
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.				
General litigation.....	93	95	\$5,750	93	95	\$5,805	93	95	\$5,815	...	...	...

Long-Range Goals: To effectively and efficiently handle all litigation assigned to the unit, especially litigation concerning the National Environmental Policy Act, protection of public lands, mineral development, water resources, inverse condemnations, Alaska National Interest Lands, energy development and conservation, marine resources and federal Indian policy. In cooperation with client agencies, to develop programs for litigation in important statutory areas so that various agency programs can be effectively promoted and furthered through thoughtful case law development. To complete litigation of Indian tribal claims expeditiously and with fairness both to the Indian tribes and the United States. To protect and define the rights of Indian tribes under treaties, acts of Congress and Executive Orders, in those cases where the United States has a trustee relationship with such Indians or Indian tribes. To assist the Division in meeting its responsibilities in the rapidly changing context of environmental law and other areas assigned.

#### Major Objectives:

In the area of General Litigation, the division unit's major objectives are:

To successfully defend against legal challenges to significant national programs.

To successfully defend the United States against monetary claims and claims challenging actions affecting federal lands, Indians, the environment, and marine resources.

To successfully initiate actions to enforce statutes and regulations protecting the public resources, including public land, water, and mineral resources.

To conduct litigation, primarily in the Supreme Court, to determine the offshore boundaries between the United States and the states.

To conduct or supervise litigation relating to the protection and management of natural resources of the outer-continental shelf (OCS), particularly oil and gas resources.

To conduct or supervise litigation relating to the protection and management of coastal and marine environment.

To participate on behalf of the Department of Justice in the National Security Council's Law of the Sea Group with the objective of coordinating the development of international law and policy relating to the seas and seabed.

In the area of Indian Claims, the unit's major objectives are:

To complete all claims filed under Section 2 of the Act of August 13, 1946 (pre-1946 claims) within two years at payment levels which are legally sound and in the best interests of the United States.

To dispose of all claims filed under 28 U.S.C. Sec. 1505 (post-1946 claims) which are more than six years old.

In the area of Indian Resources, the unit's major objectives are:

To provide representation for the United States as trustee for Indians or Indian Tribes in order to protect and define their rights under treaties, statutes, and Executive Orders.

To evaluate, settle, and when necessary, litigate claims arising under Public Law 95-203, pertaining to damage claims brought by the United States on behalf of Indian Tribes.

In the area of Policy, Legislation and Special Litigation, the unit's major objectives are:

To provide legal counsel to the Assistant Attorney General.

To provide accurate and timely responses to all requests for comment on legislative proposals.

To provide appropriate and competent input to the legislative process including preparation of testimony for Department witnesses and proposals for the Administration's program.

To monitor and report to the Division on legislative activity related to the Division's areas of responsibility.

To develop accurate and timely responses to all Congressional referrals and inquiries.

To process all requests and ensure compliance with the law for the Freedom of Information and Privacy Acts.

To counsel client agencies and litigate unusual problems.

To process requests for assistance and monitor litigation involving state and local governments.

To provide appropriate litigation support in emergencies.

To file amicus curiae briefs as requested by client agencies.

Base Program Description: The jurisdiction of the General Litigation unit is the broadest and most varied in the Division. Its primary task is to defend federal agency actions and regulations in a number of diverse areas involving the orderly use and disposal of public lands, waters, minerals, and other natural resources. A major component of the unit's caseload is the defense of federal construction projects involving highways and dams, and programs such as nuclear waste transportation and treatment, which are challenged based upon alleged violations of the National Environmental Policy Act (NEPA). The unit defends decisions regarding Indians and Indian tribes, and federal action under the Alaska Native Claims Settlement Act, the New Alaska National Interest Lands Conservation Act, the Coastal Zone Management Act, the Outer Continental Shelf Lands Act (OCSLA), the Surface Mining Act, and the Deep Seabed Mining Act. The General Litigation unit is responsible for water rights litigation affecting federal interests, including defense of the United States' interests in general stream adjudications. The unit's work also includes protection of the United States' monetary interest in claims based on inverse condemnation or other real property matters, as well as a small number of affirmative cases, which include trespass actions and fire suppression matters.

The nature of the caseload in the General Litigation unit has been changing as a reflection of the times. The following examples reflect recent and anticipated trends in the litigation responsibilities of the General Litigation Unit:

1. Energy-related litigation. In Outer Continental Shelf (OCS) oil and gas litigation, multiple issues have been raised involving NEPA, the OCSLA amendments, the Coastal Zone Management Act, and the Endangered Species Act. We anticipate that state governments and environmental organizations will continue to mount legal challenges to OCS lease sales. Moreover, as oil companies begin to file exploration and development plans, we anticipate a commensurate increase in litigation over the Department of the Interior's decisions about such plans. These cases are extraordinarily demanding because the issues cross statutory boundaries, millions of dollars are at stake, and opponents join forces and resources to mount swift, sophisticated challenges.
2. Environmental challenges under NEPA. These suits, which now number about 360, assert federal agency failure to consider environmental factors in making decisions. Under this statute, agencies must prepare environmental assessments for projects with possible significant environmental impacts, and prepare environmental impact statements (EIS's) for major federal actions having a significant impact on the environment. Suits generally fall into three categories: (1) no EIS or assessment was done; (2) an assessment was prepared and a decision made not to prepare an EIS; and (3) an EIS was prepared, but the plaintiff alleges that it was inadequate. Because of the broad language of the statute and the sweeping applications resulting from current and anticipated Council on Environmental Quality regulations, those challenging federal programs will continue to find it easy to argue on NEPA applicability and compliance issues in such diverse areas as highway construction and the deployment of the MX missile system. Moreover, given the speed of technological advancement, plaintiffs may continue to use broad statutes like NEPA to challenge technological initiatives which they oppose. The recent NEPA litigation over DNA and genetic experimentation are examples of this development.



3. Litigation over Wilderness Areas. Approximately 20 million acres of Federal land are under study by the Departments of the Interior and Agriculture for consideration as wilderness areas. In light of the intense public interest in these lands, no matter what the decisions, litigation is certain to result. If land is not placed in the Wilderness System, environmentalists will sue, and if it is, developers will sue.
  4. Forest Management Plans. The Forest and Rangeland Renewable Resources Planning Act, a comprehensive piece of land management legislation which was amended by the National Forest Management Act, directs the Forest Service to assess its renewable resources—water, fish, wildlife, outdoor recreation, wilderness, timber and range—and then to develop programs for its activities. The Department of Agriculture is currently formulating a number of forest management plans. Many will be controversial and generate increased, complex litigation.
  5. Administration of Public Lands. Thousands of decisions on the uses of public lands are made each year. Federal lands are demanded for use by competing interests as diverse as birdwatchers and miners, rock climbers and motorcyclists, cattlemen and archaeologists. Many land use decisions will anger one or another of the public factions affected, and we anticipate that a number of these groups will resort to litigation. Indeed, the Federal Land Policy and Management Act (FLPMA), states that Interior's Bureau of Land Management (BLM) lands are to remain in Federal hands, unless the "disposal of a particular parcel will serve the national interest." BLM must manage the lands in a way that does not cause "permanent impairment of the productivity of the land and the quality of the environment. . . ." At the same time, BLM must recognize "the Nation's need for domestic sources of minerals, food, timber, and fiber." The wording of this statute requires BLM to balance national priorities, and imposes a degree of subjectivity into land management decisions which will continue to engender litigation by those who disagree with BLM's decisions.
- The Indian Claims program of the unit defends the Government in two major categories of money damages. The first category, suits filed under 25 U.S.C. § 70a, et seq., address historical claims arising between 1776 and August 13, 1946. Congress has waived the Government's immunity from these claims, and established broad bases for recovery, including claims based on "fair and honorable dealings" and the past violations of treaties, contracts, and agreements. By contrast, suits in the second category, filed under 28 U.S.C. § 1505, address contemporaneous claims within the applicable six year statute of limitations.
- As the unit has had success in its efforts to resolve pre-1946 claims, the program docket has increasingly come to reflect monetary issues relating to current government management programs for Indian resources such as water, oil, gas, minerals, range lands, fisheries and timber. As a result, the programs of agencies having either express Indian tribal resource or federal resource management responsibilities are involved. As this litigation has come to present issues of current rather than historical agency practices, the substantive rulings of the Claims Court and the Court of Appeals for the Federal Circuit on underlying legal issues has grown in significance.

The recent Supreme Court decision in *United States v. Mitchell* indicates that the successful defense of these suits will be even more demanding in the future. In *Mitchell*, the Court held the United States was liable for money damages for alleged breach of trust responsibilities in connection with the Government's management of forest resources on the Quinault Reservation. The Court also held that, where the Government exercises significant control over Indian tribal property or monies, a fiduciary relationship necessarily arises with respect to such property or monies. The *Mitchell* decision appears to explain much of the previously unanticipated influx of new \$ 1505 damage actions for alleged breaches of trust in the management of timber, oil, gas and other tribal resources. In FY 1983 and FY 1984, for instance, the annual number of new suits managed by the unit exceeded the prior six year peak. A substantial portion of these new suits are Mitchell-related claims.

Potential monetary exposure to the Government from existing claims is \$2 billion, and experience indicates that the Indian Claims unit reduces recoveries by over half of the amount initially claimed. Given the comprehensive Governmental involvement in the management of Indian resources and the related statutes and regulations which may predicate Government liability, the failure to defend these suits would result in much higher adverse judgments. Moreover, as a practical matter, the program has virtually no discretion to decline the defense of this litigation.

The Indian Resources program of this unit is responsible for litigation where the United States is acting as trustee on behalf of Indians. The basis for the trust existing between the United States and Indian tribes and their members is found in a myriad of treaties, statutes and Executive Orders (see Kappeler, *Indian Affairs*, Volumes I, III, IV, and V). Under these authorities, the United States, acting through the Executive Branch, is obligated to perform a variety of functions on behalf of Indian tribes and their members.

At this time, the unit's most important litigation is concentrated in three general areas. The first is litigation to establish, by judicial decree, the rights of Indians to waters appurtenant to their reservations. Since most reservations involved lie in arid portions of the western United States, the establishment of such rights is essential to permit the development of these reservations. Litigation relating to the establishment and protection of hunting and fishing rights held under treaties is second; third is litigation which relates to such questions as the jurisdiction of Indian tribes to govern and control the activities of their members within their reservations. This latter class of cases involves a broad spectrum of problems touching almost all facets of the lives of those Indians under the protective arm of the Government.

The magnitude of the national problem addressed by the Indian Resources unit is reflected by the fact that the litigation program extends to the protection of more than 50 million acres of Indian reservation lands. Moreover, since Indian tribes own or have rights to substantial amounts of water in states with relatively little water, tremendous opportunities for controversy and litigation exist. The Indian Resources program acts primarily in furtherance of the policies of the Department of the Interior, its client agency. Efforts to comply with the policies of that agency require close coordination and consultation throughout the litigation process. Moreover, the unit is making special efforts to find ways of narrowing issues with the states and other parties in order to streamline this complex litigation process.

The Policy, Legislation and Special Litigation (PLSL) program of the decision unit addresses the dynamic nature of the subject matter which is assigned to the Land and Natural Resources Division. Federal policies and needs with respect to natural resources, Indian and environmental issues are the subject of many legislative, executive, and judicial proposals and decisions each year. The Division must focus this high level activity in order to keep pace with rapidly developing law related to natural resources and the environment. Other resources of the Division are overburdened with day-to-day litigation responsibilities and, therefore, cannot also perform the activities mentioned above.

Because of legislative activity alone, the Division has experienced an explosion of laws for which it has responsibility. On the average, this Division comments on more than 320 legislative proposals each year, many involving complex and far-reaching programs. Justice Department involvement at the legislative stage can often prevent problems which otherwise might require years of more expensive effort in administrative and judicial proceedings to correct. Additionally, the Division must respond to Congressional inquiries and referrals of problems.

The Division is confronted with special litigation needs because of novel client problems, enforcement gaps in traditional programs, requests for assistance from state or local governments, litigation emergencies, judicial determinations changing significant precedents, and mandates from Congress and the Attorney General. Such needs almost always require the concentrated and immediate allocation of personnel. Although the subject matter of these needs is varied, the level of need will probably increase in the context of the rapidly developing areas of law assigned to the Division.

Accomplishments and Workload: The accomplishments of the General Litigation program are presented in the following table:

	1983	1984	Estimates	
			1985	1986
Cases/Matters pending, beginning of year	4,256	4,500	3,299	3,611
Cases/Matters Received	887	740	725	775
Cases/Matters Closed	643	1,941	413	420
Cases/Matters pending, end of year	4,500	3,299	3,611	3,966

#### GENERAL LITIGATION

The number of cases handled by the General Litigation unit has decreased, starting with a drop in new cases in 1983, and continuing with the closure of 1,941 old cases in 1984, of which 1,356 were Surface Mining Act cases. The drop is a result of the Department's decision to treat surface mining civil penalty cases as direct reference matters for which the appropriate United States Attorney will take full responsibility, except in rare extenuating circumstances. These surface mining cases constituted nearly 30 percent of the unit's docket in 1982, yet, because of U.S. Attorney involvement, these cases consumed less than one percent of the unit's resources and are not a significant factor in determining staffing needs. The caseload remaining represents the unit's most complex and resource intensive litigation.

	1983	1984	Estimates 1985 1986
<b>INDIAN CLAIMS</b>			
Cases/Matters pending, beginning of year	79	73	75 72
Cases/Matters Received	11	13	12 12
Cases/Matters Closed	17	11	15 15
Cases/Matters pending, end of year	73	75	72 69
<b>INDIAN RESOURCES</b>			
Cases/Matters pending, beginning of year	499	560	586 600
Cases/Matters Received	87	62	48 48
Cases/Matters Closed	26	36	34 34
Cases/Matters pending, end of year	560	586	600 614
<b>POLICY, LEGISLATION AND SPECIAL LITIGATION</b>			
Cases/Matters pending, beginning of year	97	98	114 204
<b>Cases/Matters Received</b>			
Cases Received	46	44	50 50
Reports on Bills	331	351	325 325
Congressional Correspondence	66	80	80 80
Response to FOIA/PA Requests	63	72	70 70
Citizens Mail	329	369	375 375
Legal Counsel Matters	177	195	250 250
Total, Cases/Matters Received	1,012	1,111	1,150 1,150
<b>Cases/Matters Closed</b>			
Cases Closed	49	46	40 40
Reports on Bills	327	348	330 330
Congressional Correspondence	64	72	70 70
Response to FOIA/PA Requests	67	71	70 70
Citizens Mail	318	361	350 350
Legal Counsel Matters	186	197	200 200
Total, Cases/Matters Closed	1,011	1,095	1,060 1,060
Cases/Matters pending, beginning of year	99	114	204 294

1985 Appropriation  
Anticipated

Pos.	WY	1986 Base		1986 Estimate		Increase/Decrease					
		Perm.	WY	Perm.	WY	Perm.	WY				
41	36	\$4,684	41	36	\$4,789	41	36	\$4,136	...	...	-\$353

Management and Administration.....

Long-Range Goal: To provide efficient and effective management of the Division while supporting the program priorities of the President, Congress and the Attorney General in the environmental, energy conservation and resource protection areas. To provide the Division with the modern administrative and management systems and support services required to operate effectively and efficiently, accomplish its mission, and discharge its responsibilities.

#### Major Objectives:

- To develop further program initiatives to permit effective response to the Administration's policy requirements.
- To provide policy direction to Division program managers.
- To ensure that statutory obligations are met.
- To maximize use of automated litigation support for all programs in order to increase efficiency and productivity.
- To develop and maintain systems for improved fiscal planning, cost consciousness and accountability at the program level.
- To determine and implement the Division's requirements for expert witnesses.
- To complete the implementation of automated litigation management and support systems, including resource requirements analysis, which refine and monitor program plans, and evaluate program performance.
- To establish a management systems review function and participate in conjunction with the Policy, Legislation and Special Litigation program, in resource allocation studies and plans.
- To continue to evaluate and improve the Division's word processing systems to ensure optimum staff utilization.
- To inventory and identify personnel training needs and initiate a process of scheduled participation which develops user skills in automated litigation support, word processing and administrative systems.
- To develop and implement a comprehensive attorney and support staff recruitment, interview, screening, and selection program.

To prepare an updated administrative manual which addresses Division policies concerning issues such as maternity leave, promotions, awards, adverse actions; performance evaluation criteria, administrative procedures, and employee position descriptions and workplans.

**Base Program Description.** The unit provides administrative and management systems to the Division, as well as support services and programs vitally necessary to efficiently carry out the Division's litigative missions. The responsibilities of this decision unit include: budget preparation and execution; financial management, and workload and resource requirements analysis; development, operation, and maintenance of management and litigation support systems; management of space, facilities, and supply requisitions personnel recruitment as well as processing personnel actions including payroll and benefits; processing of mail and files control; providing messengers, printing and copying services, and processing purchase order requisitions.

**Accomplishments and Workload.** This decision unit provided automated litigation support using computer and microfilm technology for 17 cases including processing approximately 1.2 million pages of discovery materials. Ten of these cases are environmental enforcement cases, one of which (Shell Oil) required the processing of 500,000 pages of evidentiary materials at 11 sites throughout the country. The Government's claim in this case is for 1.8 billion dollars for cleanup of hazardous waste. Another case (Bramling) required the loading of 8,000 pages of case documents in full text for search and retrieval through JURIS. For a group of Indian Claims cases (White Mountain Apache, Navajo, Aleut and Minnesota Chippewa), 750,000 pages of documents were identified and microfilmed, using more than 550 days of contract personnel time. Each case requires the development of an extensive coding manual. For example, the manual for the Hooker-Love Canal case consists of 83 pages of technical instructions. At any given time, the Division's litigation support staff has 50-60 contract personnel in the field microfilming, coding and screening documents. During one six-month period these activities were conducted in 20 states. Without this support the Government's ability to respond to motions, prevail at trials or reach favorable settlements in important and complex cases would be greatly weakened. The decision unit also assembled and microfilmed 80,000 pages of Clean Air and Clean Water Act legislative history for ready reference. A standard contract for allocating litigation support resources was established, significantly enhancing the Division's ability to meet critical court-imposed deadlines for cases involving large volumes of discovery materials.

Extensive programming changes were made to the Division's Lands Docket Tracking System including the addition of approximately 50 data elements, four records, one cross-reference index, five forms, and the ability to interface with the Division's Attorney Timekeeping System. The Division's Superfund billings were automated to include a cross-reference to the Division's Attorney Timekeeping System to accurately assess all costs.

Substantial effort was expended in designing a modern personnel system that would foster enhanced productivity. After extensive research, efforts were made to pattern new policies as closely as possible after those prevalent in the private sector. An orientation program for new employees was offered and exit procedures for departing employees were implemented. The decision unit also implemented the use of new, detailed workplans and realistic appraisal standards for attorneys, paralegals

and secretaries to promote uniformity and fairness throughout the Division. Moreover, it revised attorney promotion policies to diminish the possibility of promotions based simply on tenure rather than excellence. Policies were developed to increase the use of awards to recognize those employees who make the greatest contribution to the Division. In 1983, 61 awards were presented to employees; in 1984 the number of awards increased to 112. Additional emphasis also was placed on expanding training opportunities for staff; twice as many personnel received training in 1984 than in 1983, and the types of subject matter covered in such training sessions was expanded. The unit also instituted seminars for secretaries relating to Department Travel Regulations and supplied reference materials to participants. These seminars have greatly increased the abilities of the participants to review and prepare vouchers according to Department policy. The seminars are cost effective since unit personnel are used to teach and prepare all reference materials. A large number of attorneys attended courses in negotiating techniques and the use of computers in litigation.

The centralization of responsibility within this decision unit for organizing the honors program and the summer intern program resulted in the Division spending a substantially smaller amount of money on this activity than in the past although it hired more entry level attorneys in this program than in any preceding year. A recruitment committee of the top policy-level managers in the Division was created to facilitate the hiring of more high quality employees and to insure the application of Division-wide criteria in the employment process.

The unit has completed filing backlogged documents in most of its cases. The backlog reduction program, inventory of property, and increased messenger service were all accomplished without the addition of any full-time permanent staff. Rather, the Division made extensive use of the government sponsored stay-in-school program. Use of this valuable resource increased almost five fold in the past year and led to the full-time employment of several of these students upon graduation.

A full scale study of the workload and operation of each section is in process. The unit will complete its initial assessment of the largest sections in the Division this year. In this study, data will be collected on each facet of the operation of a section, e.g., the number and types of cases, amount of paper produced, number of court days and travel days, overtime hours, various types of backlogs, nature of docketed information, internal management and reporting systems, and function of each category of employee within a section. Specially tailored management systems are being designed for each section.

As a result of the completion of the study of the Division's largest section, a number of management reforms were introduced by senior Division officials. Another outgrowth of the studies was a series of meetings in which all Division managers had the opportunity to discuss management and administrative concerns common to all sections.

The Division completed an analysis of its duplicating and word processing needs and concluded the long overdue process of providing its staff with new and substantially upgraded duplicating facilities in each of the Division's locations and increasing the number of word processing machines by more than 80% since 1981. Similarly, the Division inventoried all of its furniture and related equipment during 1984 and, as a result, adequate furniture, dictation equipment, and filing cabinets have been purchased for all employees. Controls have been implemented for the disbursement and tracking of this furniture and equipment.

Program Changes: A decrease of \$353,000 is requested in 1986 for the Management and Administration Decision Unit. The decrease, in the administrative services and automated systems areas of the administration program, result from actions taken with regard to administrative services during 1984 and 1985 and from efficiencies realized in automated litigation support.

The completion of the analyses of the Division's duplicating and word processing needs, and the resulting actions taken, has increased productivity and allowed small savings in equipment rentals, printing, supplies, and equipment purchases. Additionally, the elimination of the filing backlog of most case documents will allow a decrease in the need for overtime.

Moreover, the unit anticipates a slightly lower dollar need for automated litigation support during 1986. As experience is gained in providing automated litigation support to the Division's cases, the unit will be able to better target the coding and automated indexing of case documents to the particular needs of individual cases. Additionally, the unit has been able to develop a pool of contractors familiar with the Division's automated litigation support needs. As a result, the unit anticipates it will be able to support the same number of cases in 1986 as will be supported in 1985 at a lower total cost.



Land and Natural Resources Division  
Salaries and Expenses, General Legal Activities  
Priority Ranking of Programs

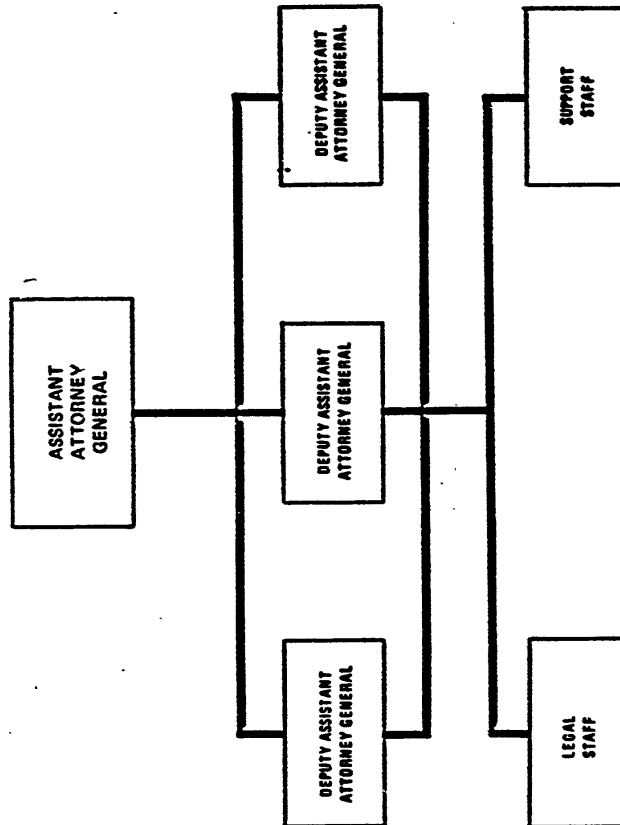
<u>Base Programs</u>	
<u>Program</u>	<u>Ranking</u>
Environmental Protection	1
Appellate	2
General Litigation	3
Management and Administration	4
Land Acquisition	5

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Land and Natural Resources Division  
Salaries and Expenses, General Legal Activities  
Detail of Permanent Positions by Category  
Fiscal Years 1984-1986

Category	1984 Authorized	1985 Authorized	1986 Authorized
Attorneys (905)	173	184	184
Paralegal Specialists (950)	25	25	25
Other Legal and Kindred (900-998)	9	9	9
General Admin., Clerical and Office Services (300-399)	116	123	123
Accounting and Budget (500-599)	3	3	3
Business and Industry Group (1100-1199)	3	3	3
Total	329	347	347
Washington U.S. Field	315 14	333 14	333 14
Total	329	347	347

OFFICE OF LEGAL COUNSEL



1395

Approved: *William French Smith* Date: *1/19/84*  
William French Smith  
Attorney General

Office of Legal Counsel  
Salaries and expenses, General Legal Activities

Summary of Requirements  
(Dollars in thousands)

<u>Adjustments to base:</u>	<u>Perm.</u>	<u>Work-</u>	<u>Amount</u>
<u>Pos.</u>	<u>years</u>		
1985 as enacted.....	35	39	\$2,223
1985 Pay supplemental requested:			<u>Amount</u>
Increased pay costs.....			\$41
Deferrals or reprogramming to meet increased costs.....			-1
Net pay supplemental.....			40
Proposed Rescission.....			-4
1985 appropriation anticipated.....	35	39	2,259
Savings resulting from management initiatives.....			-52
Uncontrollable increases:			
Restoration of reduction for change in hourly rate.....			1
Annualization of 1985 pay increase.....			23
Within-grade increases.....			12
Health benefits costs.....			2
GPO printing costs.....			1
GSA recurring reimbursable services.....			1
Federal Telecommunications System (FIS) rate increase.....			1
Department telecommunications.....			2
Automated legal research and litigation support services.....			6
General pricing level adjustment.....			11
Total uncontrollable increases.....			60
Decreases:			
Nonrecurring decrease for equipment.....			-41
1986 base.....	35	39	2,726
1985 Appropriation Anticipated			<u>Increase/Decrease</u>
Perm. Pos. WY Amt.	Perm. Pos. WY Amt.		
1984 as Enacted	1984 Actual	1986 Base	1986 Estimate
Perm. Pos. WY Amt.	Perm. Pos. WY Amt.	Perm. Pos. WY Amt.	Perm. Pos. WY Amt.
Estimates by budget activity	35 39 \$2,054 35 36 \$1,984 35 39 \$2,259 35 39 \$2,226 35 39 \$2,217		
6. Legal opinions.....			-59

Office of Legal CounselSalaries and expenses, General Legal ActivitiesJustification of Program and PerformanceActivity Resource Summary  
(Dollars in thousands)

Activity: Legal Opinions	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount
Legal opinions.....	35	39 \$2,259	35	39 \$2,226	35	39 \$2,217	...	-\$9

This budget activity includes resources for the primary mission of the Office of Legal Counsel (OLC). Funds requested for this activity support personnel involved with the preparation of the Opinions of the Attorney General and other OLC opinions on a variety of significant and complex constitutional, statutory and other legal questions involving the operation of the Executive Branch.

Long-Range Goal: To assist the Attorney General in his role as legal adviser in the Executive Branch, and to provide timely, exceptionally high quality, and reliable legal analysis in response to requests for opinions coming from the President, the White House staff through the Counsel to the President, the Attorney General, Justice Department components, and the heads of Executive Branch and independent agencies.

Major Objectives:

To increase the timeliness and quality of all OLC formal and informal opinions.

To carry out the President's Executive Order on Federal Legal Services by improving this Office's usefulness as an aid in the resolution of Intra-Executive Branch disputes and legal questions.

To assist other components in the Department of Justice in drafting and providing testimony on proposed legislation, and to provide comments on the constitutionality and legality of proposed legislation of interest to other departments and agencies.

To assist the Attorney General in his function of providing general legal advice to the President and Executive Branch agencies.

To perform its function of approving Executive Orders and Orders of the Attorney General as to form and legality competently, thoroughly and expeditiously.

To continue the practice, begun in 1977, of making publicly available in published form those Office of Legal Counsel opinions that are of general interest to the public.

Base Program Description: The principal duty of the Office of Legal Counsel is to assist the Attorney General in his function as legal adviser to the President and Executive Branch agencies. The Office also reviews as to form and legality all Executive Orders and Proclamations proposed to be issued by the President. All proposed orders of the Attorney General, and all regulations requiring his approval, are also reviewed by the Office of Legal Counsel. In addition, the staff is also involved in coordinating the work of the Department with respect to treaties, executive agreements and international organizations and performs a variety of special assignments referred to the Office by the Attorney General, the Deputy Attorney General, or the Associate Attorney General.

The statutory authority pertaining to the Office of Legal Counsel is 28 U.S.C. 511-512. There are no pending or proposed legislative changes which would affect this Office.

The Office of Legal Counsel does not initiate any programs or have control over the volume of requests for opinions of the Attorney General or for legal opinions of the Office of Legal Counsel. All of the Office's work results from requests for opinions and legal advice from the President, the White House staff, Attorney General, members of the Cabinet and Executive Branch agencies and other Department of Justice officials.

A small number of requests are considered appropriate for formal Attorney General opinions which are drafted preliminarily in OLC and reviewed, revised and approved by the Attorney General. The majority of such requests result in the preparation of legal opinions signed by the Assistant Attorney General or one of the Deputies based upon the research of one or more of the 16 staff attorneys. Other requests result in the provision of oral advice to the client.

Accomplishments and Workload: Accomplishments of the Office of Legal Counsel are presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
Executive orders and proclamations.....	66	51	70	70
Opinions.....	505	508	515	520
Intradepartmental opinions.....	602	605	610	620
Special assignments.....	2,556	2,558	2,555	2,560

The number of opinions rendered by the Office of Legal Counsel has continued to increase. Given the small size of the Office, we are always striving for greater efficiency so as to improve the timeliness of OLC opinions.

OLC provided legal opinions under Executive Order No. 12146 in several disputes between Executive agencies. The Office has continued to respond to every request for such dispute resolution it receives. OLC has received numerous such requests during the past fiscal year and continues to enjoy a high degree of respect from Executive agencies for its opinions.

OLC has taken a major role in either testifying or preparing testimony in connection with pending legislation of interest to the Department and the Administration. OLC also has assisted in the drafting of legislation, and in providing legal advice concerning the legality and constitutionality of proposed and enrolled bills to other components in the Department and to other departments and agencies on subjects as diverse as the work of the Executive Branch itself.

The Office has provided general legal advice to the President and the various departments and agencies of the Executive Branch on a wide range of legal issues, including among others, actions to be taken in the aftermath of the Supreme Court's decision in *INS v. Chadha* regarding legislative veto, compliance with the Federal Advisory Committee Act, the Ethics in Government Act, and the Administrative Procedures Act, as well as more specific questions arising from the laws relating more narrowly to the individual departments and agencies.

During the past fiscal year the Office has reviewed for the White House numerous Executive Orders as to their form and legality, and given advice to the President concerning appropriate revisions and considerations. In some areas, particularly under the Railway Labor Act, the Office has developed the expertise and procedures necessary to perform this function within only a few business hours. OLC has also reviewed several orders of the Attorney General during the same period, some of them on very limited time schedules.

Planning and work has begun on Volumes 4, 5, 6 and 7 of the Opinions of the Office of Legal Counsel to contain noteworthy opinions rendered in 1980 through 1983. We believe we now have in place and are attempting to refine a structure that will improve the speed of producing these volumes.

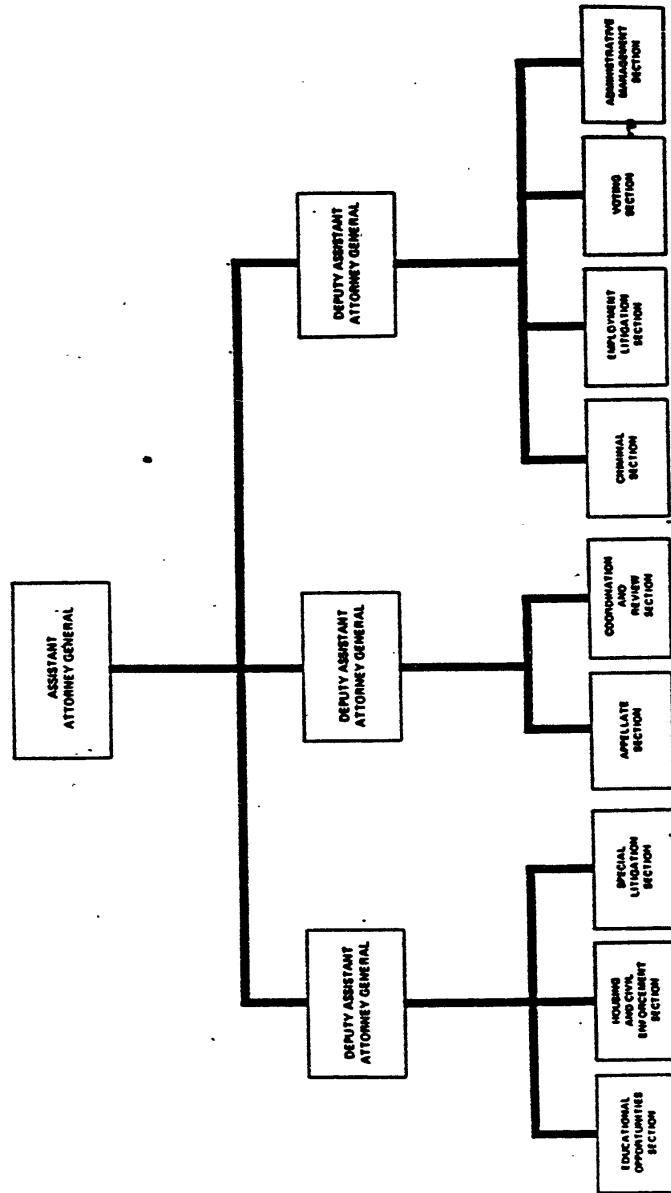
Program Changes. The 1986 request for the Office of Legal Counsel includes a decrease of \$9,000 which is expected as a result of management improvements.

Office of Legal Counsel  
Salaries and expenses, General Legal Activities  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985 Authorized	1986 Request
Attorneys (905).....	20	20	20
Other Legal and Kindred (900-998).....	9	9	9
Gen. Admin., Clerical and Office Services (300-399).....	6	6	6
Total.....	35	35	35
Washington.....	35	35	35
U.S. Field.....	...	...	...
Foreign Field.....	...	...	...
Total.....	35	35	35



CIVIL RIGHTS DIVISION



1401

APPROVED [Signature] DATE 10/20/83  
Deputy Attorney General

Civil Rights Division  
Salaries and expenses, General Legal Activities  
Crosswalk of 1985 Changes  
(Dollars in thousands)

Activity/Program	1985 President's Budget Request			Congressional Appropriation Action on			1985 Supplementals Requested			1985 Proposed Reactions			1985 Appropriation Anticipated		
	Pos.	WY	Amt.	Pos.	WY	Amt.	Pos.	WY	Amt.	Pos.	WY	Amt.	Pos.	WY	Amt.
Federal appellate activity.....	30	30	\$1,646	...	...	-\$22	...	...	...	...	...	...	30	30	\$1,657
Civil rights prosecution.....	45	44	2,314	...	...	-24	...	...	...	...	...	...	45	44	2,324
Special litigation.....	35	36	2,146	...	...	-21	...	...	...	...	...	...	35	36	2,153
Voting.....	68	71	2,905	...	...	-30	...	...	\$107	...	...	...	68	71	3,039
Employment litigation.....	61	62	3,232	...	...	-37	...	...	...	...	...	...	61	62	3,255
Coordination and review.....	39	42	2,077	...	...	-28	...	...	...	...	...	...	39	42	2,090
Housing and civil enforcement...	33	34	1,710	...	...	-21	...	...	27	...	...	...	33	34	1,756
Educational opportunities.....	33	33	1,668	...	...	-20	...	...	27	...	...	...	33	33	1,691
Management and administration...	62	73	5,000	-2	-1	-229	...	...	-166	...	...	...	60	72	4,659
Total.....	406	425	22,698	-2	-1	-432	...	...	-5	...	...	...	404	424	22,624

Explanation of Analysis of Changes from 1985 Appropriation Request

Congressional Appropriation Action

The Congress reduced the Civil Rights Division appropriation request for 1985 by \$249,000 for Standard Level User Charges and two positions, one workyear and \$183,000 for a requested increase for automated litigation support activities.

Reprogrammings

The reprogramming of \$161,000 reflects changes made to enable the accomplishment of internal priorities. They do not involve more than \$250,000 or 10% of a division unit's resources and therefore do not require formal reprogramming notification. Also included is a reprogramming of \$5,000 to fund the close-out of the Independent Counsel.

Supplemental Requested

The pay request provides \$444,000 to meet increased pay requirements. (Executive Order 12496 dated December 28, 1984.)

Proposed Reactions

In accordance with section 2901 of the Deficit Reduction Act, \$81,000 is proposed for rescission in travel and transportation and the other services areas.



Civil Rights Division  
Salaries and expenses, General Legal Activities  
Summary of Resources by Program  
(Dollars in thousands)

Estimates by Program	1984 as Enacted			1984 Actual			1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	Pos.	WY	Perm.	Pos.	WY	Perm.	Pos.	WY	Perm.	Pos.	WY	Perm.	Pos.	WY	Perm.	Pos.	WY
Federal appellate activity.....	30	30	\$1,529	30	29	\$1,527	30	30	\$1,657	30	30	\$1,661	30	30	\$1,661	...	...	...
Civil rights																		
prosecution.....	40	39	1,952	40	39	1,949	45	44	2,324	45	45	2,333	45	45	2,333	...	...	...
Special litigation.....	35	36	1,988	35	35	1,894	35	36	2,153	35	36	2,160	35	36	2,160	...	...	...
Voting.....	68	68	2,700	68	67	2,695	68	71	3,039	68	71	3,047	68	71	3,047	...	...	...
Employment litigation.....	61	62	3,132	61	61	3,126	61	62	3,255	61	62	3,263	61	62	3,263	...	...	...
Coordination and review..	39	42	1,927	39	42	1,924	39	42	2,090	39	42	2,094	39	42	2,094	...	...	...
Housing and civil enforcement.....	33	34	1,513	33	33	1,510	33	34	1,756	33	34	1,761	33	34	1,761	...	...	...
Educational opportunities	33	33	1,476	33	33	1,473	33	33	1,691	33	33	1,696	33	33	1,696	...	...	...
Management and administration.....	60	72	4,483	60	71	4,481	60	72	4,659	60	72	4,806	60	72	4,337	...	...	-469
Total.....	399	416	20,700	399	410	20,669	404	424	22,624	404	425	22,821	404	425	22,352	...	...	-469
Reimbursable Workyears...	6	6		6	6		6	6		6	6		6	6		...	...	...
Total FTR Colling.....	422	422		416	416		430	430		431	431		431	431		...	...	...
Other Workyears																		
Holiday.....	...	...		...	...		...	...		...	...		...	...		...	...	...
Overtime.....	3	3		7	7		3	3		3	3		3	3		...	...	...
Total compensable workyears.....	425	425		423	423		433	433		434	434		434	434		...	...	...

Civil Rights Division

Salaries and expenses, General Legal Activities

Justification of Program and Performance

Activity Resource Summary  
(dollars in thousands)

Activity: Civil Rights Matters	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Anticipated									Perm.	
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY
Federal appellate activity.....	30	30	\$1,657	30	30	\$1,661	30	30	\$1,661	...	...
Civil rights prosecution.....	45	44	2,324	45	45	2,333	45	45	2,333	...	...
Special litigation.....	35	36	2,153	35	36	2,160	35	36	2,160	...	...
Voting.....	68	71	3,039	68	71	3,047	68	71	3,047	...	...
Employment litigation.....	61	62	3,255	61	62	3,263	61	62	3,263	...	...
Coordination and review.....	39	42	2,090	39	42	2,094	39	42	2,094	...	...
Housing and civil enforcement.....	33	34	1,756	33	34	1,761	33	34	1,761	...	...
Educational opportunities.....	33	33	1,691	33	33	1,696	33	33	1,696	...	...
Management and administration.....	60	72	4,659	60	72	4,806	60	72	4,837	...	...
Total.....	404	424	22,624	404	425	22,821	404	425	22,732	...	...

This budget activity consists of resources designed to accomplish the mission of the Civil Rights Division. The Division is responsible for the enforcement of all laws and Executive Orders prohibiting discrimination on account of race, color, national origin, sex, age, handicap or religion. The Attorney General has also been delegated responsibility to administer the special provisions of the Voting Rights Act of 1965, as amended in 1970, 1975 and 1982, including under Section 5, the preclearance of all changes affecting voting in covered jurisdictions; to litigate sex discrimination cases referred under Title IX of the Education Amendments of 1972; and to handle cases involving discrimination by federal contractors referred by the Department of Labor. The Division's delegation of the Attorney General's responsibilities to coordinate and enforce Title VI of the Civil Rights Act of 1964 by all federal program agencies was enhanced significantly by Executive Order 12250, signed November 2, 1980. The Executive Order increased the Division's coordination authority under Title VI and also delegated coordination authority for Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973, as amended. In addition, in 1980 Congress enacted the Civil Rights for Institutionalized Persons Bill which authorizes the Attorney General to bring litigation against unconstitutionally operated state and local institutions.

1985 Appropriation	1986 Base		1986 Estimate		Increase/Decrease		
	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	Perm. Pos.	WY Amount	
Federal appellate activity.....	30	\$1,657	30	\$1,661	30	\$1,661	...

Federal appellate activity.....

Long-Range Goal: To reduce the incidence of unlawful denials of civil and constitutional rights.

#### Major Objectives:

To file, on a selective basis, appellate level cases initiated by the government.  
To serve as a friend of the court in appellate cases which have a substantial impact on federal civil rights enforcement.  
To handle all appropriate appellate level litigation in the civil rights area, rather than to have such cases handled by the enforcement programs.  
To provide legal counsel to government departments and agencies with respect to their civil rights related programs and nondiscrimination requirements.  
To provide significant substantive support for the Division's legislative initiatives and to comment on the legislative proposals of others.  
To provide, with respect to pending litigation, legal counsel and research assistance to other enforcement activities and to the Department.

**Base Program Description:** Once a litigating program has obtained a district court judgment, the case may be reviewed in the courts of appeals or the Supreme Court. The program handles or supervises the handling of all appeals from both favorable and adverse judgments in which the government participated. A favorable district court decision is meaningless if it is reversed on appeal, and the program needs and resource expenditures of district court litigation demand the ability to appeal adverse decisions. The success of the Division's front-line litigating programs depends on this program's effectiveness on appeal.

In addition, since appellate court decisions in private cases may profoundly affect the entire civil rights effort, the program participates as a friend of the court in appellate cases which raise issues that, when resolved, will have an impact on the scope of the Division's enforcement jurisdiction. In some instances, the program participates in the district court in cases in which the other division components have no direct responsibility.

In support of an effective civil rights enforcement program, the program develops, as requested, new legislation or modifications or amendments to existing legislation in the interest of protecting the civil rights of all citizens; comments on civil rights legislative proposals of others (as required by the Department's Office of Legislative and Intergovernmental Affairs and as requested by the Office of the Assistant Attorney General); provides legal counsel to federal agencies responsible for the administration and development of programs with civil rights implications which invariably present difficult legal and policy questions. The advice the program gives is designed to ensure the legality of such programs, promote uniform policy application, and lessen the possibility of expensive and disruptive litigation later. Such counsel involves commenting on draft regulations and the efficacy of program administration as well as advising on proper litigating strategy.

For 1986, no additional resources are requested for this program. At the base level, this program will adequately represent the United States in its important appellate litigation. Legislative and legal counsel activities will be handled as resources permit.

Accomplishments and workload: The accomplishments of this program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Cases/Matters Commenced.....	239	166	175	175
Briefs Filed.....	91	77	80	80
Solicitor General Recommendations.....	21	18	22	20
Decisions Not to Participate or Appeal.....	23	33	23	23
Legal Counsel & Research Assistance Provided.....	37	57	50	50
Legislative Comment & Testimony.....	21	12	14	13
Cases/Matters Handled.....	371	297	300	300

During 1984, the Division filed approximately 28 papers in the Supreme Court and 49 in the circuit courts of appeals; 95 percent were prepared by the Appellate Program (the remainder were reviewed by the program). Additionally, 85 percent of the merits decisions were in full or partial accord with the Division's contentions.

The Supreme Court issued eleven merits decisions in Division cases, ten of which were consistent with the government's position. In a major decision involving the scope of Section 504 of the Rehabilitation Act of 1973, the Court held that employment discrimination by federal aid recipients based on handicap is prohibited even where the primary purpose of the federal aid is not to provide employment. In a prominent voting rights case, the Court held unanimously that the Attorney General's failure to object to a state statute purporting only to increase the size of the county council did not constitute Section 5 preclearance of an at-large election change. In two cases involving allegations of sex discrimination, the Court concurred in the Division's arguments: (1) that, while institutions which receive federal financial assistance within the meaning of Title IX through student use federal grants are required to provide assurances that they will not discriminate on the basis of sex, only that portion of the institution receiving federal monies, here the financial aid program, is subject to federal regulations prohibiting sex discrimination; and, (2) that a female associate of a law firm had stated a claim under Title VII by alleging that consideration for partnership was a term or condition of employment, and that she had been denied partnership on the basis of her sex. In another case involving employment rights, the Court adopted the government's arguments, reversing a Sixth Circuit affirmation of an injunction prohibiting the layoff or demotion of fire department personnel on the basis of seniority in order to preserve gains in minority hiring and promotions resulting from a prior Title VII consent decree; because Title VII protects bona fide seniority systems, the Court held, that innocent employees may not be denied the benefits of their seniority. The Supreme Court adopted the Division's views as amicus that the Equal Protection Clause prohibits revoking a parent's child custody because the parent marries a person of a different race.

The circuit courts of appeals rendered 35 merits decisions, of which 27 were in accord and two were in partial accord with the Division's contentions; one decision did not address the issue argued by the United States. The issues involved in these cases included employment discrimination, school desegregation, the rights of handicapped individuals, and criminal and voting rights violations. For example, in an appeal of the dismissal of 24 counts of a criminal indictment alleging violations of the involuntary servitude statutes, the Ninth Circuit reversed and remanded for trial, holding that involuntary servitude may be accomplished through coercion without the use or threatened use of physical force or imprisonment. The Fifth Circuit held that Section 504 of the Rehabilitation Act applies to hospitals receiving federal financial assistance in the form of Medicare and Medicaid payments, and that the applicable "program or activity" is the hospital's inpatient

services. In a case involving state welfare personnel selection procedures, the Fifth Circuit held that personnel tests had a disparate impact, that the final selection process was purposefully discriminatory, and that the United States was entitled to recover retroactive relief for victims of discrimination. The Seventh Circuit held, in a case decided just prior to the end of the year, that the substantial obligation of the United States to provide available federal financial assistance in the desegregation of Chicago schools consistent with the terms of a previously negotiated consent decree cannot be construed, as the district court had ruled, to constitute an entitlement to all funds at the Secretary's disposal (some 29 million dollars) or an obligation to ask Congress for some 74 million dollars more; rather, it represents an obligation to provide an equitable fair share of available funds, consistent with the criteria governing grants among similarly situated applicants.

During the year, in its legal counsel capacity, the program provided 57 written comments to other agencies and Divisions, and to other offices within the Civil Rights Division, concerning the legal activities of others which have an impact on federal civil rights enforcement or affect the mission of the Appellate Program.

Program staff prepared comments on 12 legislative matters, including a draft bill to strengthen the enforcement provisions of the Fair Housing Act. Control of the Division's legislative activity is now centralized in the Office of the Assistant Attorney General, where day-to-day responsibility for legislative matters is assumed by a legislative counsel. Thus, while the program will continue to prepare bill comments, testimony, and drafts of proposed legislation, routine legislative matters will be received and handled by the Office of the Assistant Attorney General where coordination responsibility will reside.

Further refinements in the automated data processing system have resulted in the generation of more accurate tabulations of matters and cases commenced, closed and pending, as well as well-defined production criteria such as the number and nature of briefs filed over a given period, and the number and type of decisions by the circuit. The Division is developing a computer program to facilitate the review of large trial records in cases on appeal, and is presently using microcomputers within the program to access various legal data bases. While the design and establishment of such systems require the commitment and allocation of resources, once established, they are very cost effective.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount
Civil rights prosecution.....	45	44	\$2,324	45	45	\$2,333	45	45	\$2,333	...	...	...

Long-Range Goal: To eliminate or significantly reduce police criminal misconduct as well as criminal misconduct of other public officials which violate the civil rights of persons in the United States; eliminate or substantially reduce violent activity by private citizens which interferes with federally protected civil rights on the basis of race, religion, national origin or sex, particularly in the areas of housing, public accommodations, and education; and eliminate or significantly reduce peonage and involuntary servitude violations, particularly those affecting migrant workers.

Major Objectives:

To expeditiously respond to and cause to be investigated all valid complaints of potential criminal civil rights violations.



To present potentially meritorious incidents to grand juries for investigation and, where warranted, for indictment.  
 To try cases in which indictments have been returned.  
 To review and authorize criminal civil rights prosecutions proposed by the U.S. Attorneys.  
 To reduce the amount of time required to review and make prosecutive determinations on matters investigated by making decisions not to prosecute within three months of receiving a complaint; initiate prosecution on all meritorious cases within six months of receiving a complaint.  
 To initiate prosecution of Ku Klux Klan members and other persons involved in incidents of racial violence in violation of federal criminal civil rights statutes.  
 To establish strategies for dealing with widespread violations of criminal civil rights laws in specific geographic areas.  
 To establish a task force to deal with the victimization of migrant workers in violation of the involuntary servitude and peonage statutes.  
 To establish an outreach program to focus public attention on the Department's efforts in identifying criminal civil rights violations and subsequently to increase prosecutions of same.

Base Program Description: This program is responsible for the investigation and prosecution of violations of the federal criminal civil rights statutes which were designed to preserve personal liberties. Two of these laws (18 U.S.C. 241 and 18 U.S.C. 242), passed during Reconstruction, prohibit persons from acting under color of law or in conspiracy with others to interfere with an individual's federally protected rights. Other statutes enforced prohibit the holding of individuals in peonage (18 U.S.C. 1581) or involuntary servitude (18 U.S.C. 1584). The program is also authorized to enforce provisions of the 1968 Civil Rights Act (18 U.S.C. 245 and 42 U.S.C. 3631) which prohibit the use of force or threats of force to injure or intimidate any person involved in the exercise of certain federal rights and activities. Some 30 additional criminal civil rights statutes fall within this program's jurisdiction but are not frequently used.

The program receives approximately 10,000 complaints and inquiries each year. Of these, about 3,300 are fully investigated by the Federal Bureau of Investigation (FBI). Line attorneys and paralegals are responsible for reviewing the complaints and investigations and for making recommendations for further action. The results of approximately 55 to 60 investigations are presented to federal grand juries each year for additional investigation or for indictment; approximately 30 cases are tried annually. Because of the seriousness of criminal civil rights violations and the need in a free society to bring sanctions to bear when such violations occur in order to maintain public confidence in our system of justice, an effort is made, consistent with available resources, to prosecute all cases in which sufficient evidence exists to establish a violation.

The program has continued to encourage the involvement of U.S. Attorneys in civil rights prosecutions. Experience demonstrates that prosecutions handled jointly by the program and U.S. Attorneys' staffs have a greater likelihood of success. Program attorneys are familiar with the substantive issues that repeatedly arise while the Assistant U.S. Attorneys are familiar with local court practices. Coordination is also required with investigative agencies, primarily the FBI but also with the Immigration and Naturalization Service (INS) and the Department of Labor.

For 1986, no additional resources are requested for this program. At the current level, adequate resources are available to meet the major objectives established for this program.

Accomplishments and Workload: The accomplishments of this program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Complaints Received.....	10,457	8,617	9,737
Complaints Reviewed.....	9,737	7,618	8,608
Matters Investigated.....	3,259	3,410	3,853
Matters Terminated.....	3,379	2,704	3,056
Average time to close without prosecution (in months).....	7.2	7.8	6.8
Average time to close a case (in months).....	10.4	12.0	10.4

The program annually processes a large number of complaints alleging criminal interference with civil rights. During the past year, 3,410 matters which had been investigated by the FBI and 5,207 other inquiries and complaints were reviewed. During this period the results of 48 investigations were presented to federal grand juries. Thirty-six indictments were returned and ten informations were filed charging a total of 93 defendants. Trials were conducted in 29 cases, resulting in the conviction of 40 defendants. An additional 33 defendants tendered guilty pleas.

Due to continued concern about incidents of racial violence around the country, considerable emphasis was again placed on the prosecution of these matters. The 13 racial violence cases filed during 1984 represent the largest number of such prosecutions in the history of the program. Charges were brought against 36 defendants, 13 of whom tendered guilty pleas. Successful prosecutions include the conviction of four members of the Ku Klux Klan for their roles in two separate acts of intimidation occurring in Georgia. In one incident, the defendants, who were armed and masked, entered the home of a black man and his white wife. They assaulted the male victim causing cuts, bruises and a fractured skull. A similar attack was directed against a white woman who the defendants assaulted with a bolt, pointed a handgun at her head and warned her to stop associating with blacks. A fifth defendant tendered a guilty plea. In Michigan, a white defendant was convicted for causing the death of a Chinese-American by beating him in the head with a baseball bat in Highland Park, Michigan. Three defendants were convicted in Milwaukee, Wisconsin, on charges of intimidating a biracial family by burning a four foot cross on the family's lawn and cutting the fan belt on their car. Two Klansmen from Oakdale, Louisiana, tendered guilty pleas for their involvement in a series of acts of intimidation, directed against a white male and his black wife, which included a threatening visit to the victim's apartment by persons wearing Klan robes and hoods and an aborted plot to shoot up the tower of the radio station where the victim worked. Awaiting trial are nine Klansmen facing civil rights charges stemming from a violent confrontation with black marchers and police in Decatur, Alabama. A tenth defendant has tendered a guilty plea for his involvement in this incident.

Investigations into complaints alleging summary punishment by law enforcement officials continued to account for much of the program's activity. A 44-count indictment was returned charging ten officers of the Police of Puerto Rico with conspiracy to obstruct justice and numerous substantive counts of perjury regarding their involvement in the unlawful killing by police of two independence advocates at Cerro Maravilla. Successful prosecutions include the conviction of a Lynn, Massachusetts, police sergeant for violating the civil rights of a 43 year old alcoholic who drowned after being thrown off a pier into the ocean by the defendant. The police chief in Clarksville, Texas, pled guilty to an assault by shooting which caused the death of the victim. One Honolulu police officer was sentenced to three years imprisonment for violating the civil rights of an arrestee and then committing perjury during the grand jury investigation. The victim was taken to an isolated area by the defendants where he was urinated on, threatened with a pistol and ordered to catch toads with his mouth in a water-filled ditch while handcuffed. One of these defendants was also convicted along with another Honolulu police officer for his

Involvement in a separate incident where a handcuffed arrestee was beaten after being taken to an isolated area. Three officers at the Petersburg Federal Correctional Institution were convicted for beating and gassing several inmates and then attempting to obstruct investigations by the FBI and federal grand jury by asking witnesses to lie. In Escondido, California, a defendant licensed by the state to operate a foster home pled guilty to charges of sexually assaulting quadriplegic and retarded children.

The program also continued in its efforts to deter the victimization of migrant workers and other minorities in violation of the involuntary servitude and peonage statutes. In Tyler, Texas, one defendant pled guilty and two defendants were convicted on charges of illegally transporting 19 Mexican aliens across the state in an enclosed U-Haul and forcing them to work on a farm without providing adequate food or water; the victims had to resort to drinking from rain puddles to satisfy their thirst. Three defendants in Ann Arbor, Michigan, were convicted for compelling by threats, assaults and beatings, two elderly retarded men to live in unsafe and unhealthy conditions and to work without pay on the defendants' dairy farm. In order to insure the reporting of involuntary servitude and peonage complaints, management has continued efforts to improve communications and coordinate activities with other interested federal agencies, e.g., the FBI, Department of Labor and Immigration and Naturalization Service.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY
Special litigation.....	35	36	\$2,153	35	36	\$2,160	35	36	\$2,160	...	...

Long-Range Goal: To establish and protect constitutional rights of institutionalized persons, mentally and physically handicapped persons of all ages, and persons confined in state and local prisons and jails and enforce federal laws prohibiting racial discrimination in all public facilities such as prisons and jails.

#### Major Objectives:

To investigate, upon reasonable cause, the conditions of confinement and treatment provided to persons in publicly operated institutions, and to obtain voluntary compliance in correcting any constitutional deficiencies or other violations of federal law.

As a last resort, to initiate civil actions on behalf of persons confined to publicly operated institutions wherein egregious conditions deprive them of their constitutional or federal statutory rights.

To initiate civil actions designed to remove racial discrimination from public facilities.

To participate as plaintiff-intervenor in litigation to establish constitutionally acceptable conditions of confinement, care and treatment of institutionalized populations.

To initiate and participate in litigation to remove discrimination against handicapped persons.

To ensure compliance with judgments or consent decrees obtained in the cases handled by the program.

Base Program Description: The program is responsible for the enforcement of the Civil Rights of Institutionalized Persons Act which was enacted in May 1980. The Act authorizes the Attorney General to investigate and initiate civil actions on behalf of persons confined to publicly operated institutions wherein flagrant conditions deprive them of their constitutional rights. Such actions may be initiated only after appropriate state or local officials have been afforded a reasonable

opportunity to voluntarily remedy unlawful conditions of confinement and have failed to do so. Persons involved include inmates of state prisons and local jails; clients of publicly operated mental health, mental retardation and juvenile detention centers; and, residents of nursing homes, facilities for the physically handicapped and chronically ill. The program also has the responsibility of enforcing compliance with federal laws which prohibit discrimination in public facilities on the basis of a person's race, color, sex, religion or national origin.

The activities of the program are based on the Civil Rights of Institutionalized Persons Act, 42 U.S.C. 1997, Titles III and IX of the Civil Rights Act of 1964, Presidential Directives of November 16, 1971, September 8, 1974, October 11, 1974, April 28, 1976, and November 2, 1980; the Rehabilitation Act of 1973, as amended; the Education of All Handicapped Children Act of 1975, and other legislation enacted which provides funding for programs for the mentally and/or physically disabled. Additionally, the Attorney General has independent pattern and practice authority to file suit where a public facility is receiving revenue sharing funds and is shown to be discriminating on the basis of race, color, religion, sex or national origin.

Under requirements of the Civil Rights of Institutionalized Persons Act (CRIPA), the Division must follow a specific enforcement format. When the program receives plausible information that the Act is being violated, it is required to officially inform the Governor or other public officials that an investigation will commence. Investigative techniques include evaluation of the institution's physical plant, programs and practices by expert consultants, review of institutional documents, interviews of persons with knowledge of the institution's operations and analysis of state plans concerning budgetary and other resources. If the results of the investigation indicate an on-going violation of the Act, program attorneys are required to notify state officials, prior to the filing of a civil action, of the specific factors which may violate the Act and the minimum measures which must be taken to remedy the alleged conditions. After certification by the Attorney General that appropriate state officials have been encouraged to correct deficiencies and have failed to do so, a civil action may be initiated under this Act.

When suit has already been initiated by private parties seeking redress for unconstitutional conditions, the program may participate as plaintiff-intervenor or as amicus curiae in litigation to establish constitutionally acceptable conditions within the institution or to place residents of the institution in appropriate settings. Where investigation indicates that a public facility practices racial discrimination in violation of Title III of the Civil Rights Act of 1964, the program initiates civil suit. The program initiates and participates in litigation which has as its purpose the eradication of discrimination directed against handicapped persons as mandated by Section 504 of the Rehabilitation Act of 1973, as amended.

The program monitors compliance with judgments or consent decrees previously entered in the cases on its docket by reviewing court-mandated reports, by authorizing FBI investigations and, in appropriate cases, by continuing contact with court-appointed monitors responsible for assuring compliance. It presently coordinates its activities with a number of federal organizations including: Federal Prison System; U.S. Marshals Service; Office of Civil Rights, Department of Health and Human Services (HHS); Office of Human Development Services, HHS; Office of Special Education and Rehabilitative Services, Department of Education (ED); President's Committee on Mental Retardation; Office of Revenue Sharing (ORS), Treasury; Office of Justice Programs, and the National Center for Child Abuse and Neglect. The program also exchanges information with various law reform organizations and the American Bar Association's Commission on the Mentally Disabled.

This level of funding will permit the program to achieve success in accomplishing its major objectives. It will enable the program to: (1) properly investigate all complaints of serious constitutional violations in the field; (2) address referrals from other federal departments and agencies such as HHS, ED and OHS; (3) litigate and conduct compliance monitoring on current cases; and, (4) bring new and significant litigation consistent with national policy.

Accomplishments and Workload: The accomplishments of this program are presented in the following table:

Item	Estimates			
	1983	1984	1985	1986
Cases Filed.....	3	5	6	6
Cases Closed.....	2	7	5	5
Cases Pending (end of year).....	41	40	44	45
Matters/Complaints.....	1,150	1,170	1,175	1,175
Matters/General.....	108	105	110	110
Congressional/White House Referrals.....	97	200	110	110
Major Institutional Investigations Conducted.....	9	9	10	4
Major Institutional Investigations Closed.....	5	17	9	4
Major Institutional Investigations Pending (end of year).....	30	22	23	23

The program entered into three significant consent decrees during 1984 resolving four of its CRIPA investigations. The first decree was obtained in the case, Davis and U.S. v. Henderson, our intervention action against the Feliciana Forensic Facility, Louisiana's institution for the criminally insane. The decree binds the defendants to substantially comply with the state's own rules and regulations governing hospitals; with National Institute of Mental Health standards; with agency policies and procedures on the use of psychotropic medications; seclusion and restraint; and, with patients' rights enumerated in Louisiana state law. Another consent decree was entered in our case, U.S. v. Indiana, stemming from the CRIPA investigation of two mental health facilities in Indiana, Intransport State Hospital and Central State Hospital. This was the first settlement agreement concerning institutions for the mentally ill negotiated by the U.S. under CRIPA and the first attained in a non-intervention action under the Act. The agreement requires that the state improve staffing; provide adequate medical care; improve the monitoring of the use of psychotropic medication; seclusion and restraint; improve recordkeeping procedures; and, correct fire safety deficiencies. Our third settlement agreement was reached in the CRIPA case concerning constitutional conditions of confinement in several Michigan state prisons, U.S. v. Michigan. Following hearings, the court found that the decree was fair, adequate, reasonable and a lawful resolution to the constitutional issues raised by our CRIPA investigation of the subject prisons.

In addition, the program filed one case under CRIPA which resulted in litigation. The case, U.S. v. City of Newark, involves unconstitutional conditions of confinement at the Newark City Jail. After extensive settlement negotiations, we were unable to arrive at an agreement with the City of Newark and the County of Essex (both defendant parties) and, thus, were forced to resort to our enforcement alternatives under the Act. The program also participated in extensive compliance hearings in the case involving gender-based equal protection violations at the Kentucky Correctional Institution for Women, Centerfido and U.S. v. Wilson. At the conclusion of these hearings, the court found the defendants in partial noncompliance with the court's previous order to provide female inmates with programs equivalent to those afforded to their male counterparts and, accordingly, appropriate relief was ordered.

During the period, the program continued its efforts to vindicate the constitutional and federally protected rights of institutionalized persons by initiating nine investigations pursuant to CRIPA. Twelve investigations were terminated during this time thus making twenty-two the number of pending investigations at the close of the year. The program is continuing to develop information about a number of other potential investigations concerning publicly operated residential institutions and will strive to successfully negotiate other consent decrees to resolve amicably any constitutional deficiencies identified by our CRIPA investigations.

	1985 Appropriation Anticipated			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	WY Amount		Perm. Pos.	WY Amount		Perm. Pos.	WY Amount		Perm. Pos.	WY Amount
Voting.....	68	71	\$3,039	68	71	\$3,047	68	71	\$3,047	...	...

Long-Range Goal: To prevent and eliminate systemic barriers to the full participation by racial and language minorities and overseas citizens in the electoral process, and to achieve effective remedies for those citizens in specific instances where their right to vote has been denied or abridged.

#### Major Objectives:

- To prevent through the Section 5 preclearance program the implementation of new standards, practices and procedures that have the purpose or effect of denying or abridging racial and language minorities' right to vote throughout the 917 counties specially covered by the Voting Rights Act (VRA).
  - To assure the assignment of federal observers to those polling places within the specially covered counties where observer personnel are needed to document misdeeds in the electoral process or to ensure confidence of the minority community in the electoral process and actions of individuals conducting the elections.
  - To provide a federal alternative for voter registration when the actions and practices of local authorities discriminatorily deny racial and language minorities' access to the voter registration rolls.
  - To defend lawsuits that are brought against the United States under the special provisions of the VRA before three-judge panels in the United States District Court for the District of Columbia to preclear voting changes and to terminate coverage.
  - To initiate lawsuits against jurisdictions that violate the preclearance requirements of Section 5.
  - To discover and remedy actions of state and local election and voter registration administrators that prevent a full and fair exercise of the franchise by racial and language minorities, overseas citizens, and voters who are blind, disabled or are unable to read or write.
  - To discover and remedy methods of conducting elections that dilute the voting strength of racial and language minorities.
- Base Program Description: The program is divided into two components. The Section 5 component, staffed by equal opportunity specialists/program analysts under the supervision of an attorney, reviews changes in voting practices or procedures proposed by the 917 jurisdictions which are required to have such changes cleared before they can be implemented. If a jurisdiction fails to carry its burden of proving that a change does not have a discriminatory purpose or effect, the program recommends to the Assistant Attorney General that he interpose an objection to the change. As an alternative to administrative preclearance, the VRA provides that jurisdictions may seek judicial preclearance through declaratory judgment

suits. The litigation component of the program handles these suits, brings suits against jurisdictions which implement voting changes which have not been precleared, and handles suits under the provision of the Act that allows jurisdictions to seek a judicial determination that they no longer need to be subject to the preclearance requirement. The preclearance requirements of the VRA relate to changes in voting practices and procedures. Other provisions of the Act and other voting laws relate to existing practices and procedures, either those which existed before the Act went into effect in jurisdictions covered by the special provisions or those which exist in jurisdictions not covered by the special provisions. The litigation component brings lawsuits to remedy existing practices which result in the denial or abridgment of minorities' voting rights by maintaining systems of election that dilute minority voting strength, and by restricting minorities' participation in the electoral process. Enforcement of the 1975 exclusive English prohibition is handled through the administration and litigative enforcement mechanisms described above. In addition, staff members consult local election officials to help them understand their responsibilities for assisting language minorities and voters who are blind, disabled or are unable to read or write in exercising their voting rights. In a similar manner, the program helps U.S. Attorneys carry out their language provision enforcement responsibilities.

Both components of the program assist in determining where federal observers are needed to observe election day activities (to report indications of interference with or abridgment of minorities' voting rights). Through file reviews, telephone contacts and field surveys, jurisdictions needing coverage are identified, appropriate numbers and locations of observers are determined, and the Office of Personnel Management is contacted to work out the appointment and deployment of observers. The program attorneys work closely with the observers and coordinate their activities and information on election day.

The program also encourages the ultimate goal of voluntary compliance with federal civil rights voting laws by remaining available to confer with other elements of the Federal Government, such as the Federal Election Commission, the Department of Defense, and the Bureau of the Census; and with individuals and associations of state and local election administrators, such as secretaries of state and county clerks, regarding their concerns about the impact of federal law and regarding the Department's position with respect to the import and requirements of federal law.

Factors such as the number of jurisdictions that choose to file suit against the United States, and the appearance of unique legal issues and/or unusually complex factual situations in pending lawsuits, will continue to impact on the program's ability to employ resources to initiate new actions. However, insofar as possible, for 1986 these factors have been considered in the estimates of the program's ability to make significant progress toward accomplishing its objectives.

For 1986, no additional resources are requested for this program. At the current level, adequate resources are available to meet the objectives established for this program.

Accomplishments and Workload: The accomplishments of this program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Defensive Litigation.....	13	15	23
Offensive Litigation.....	130	189	115
Section 5 Submissions Received.....	3,074	3,463	3,000
			2,250

Item	Estimates		
	1983	1984	1985
Cases Closed.....	9	5	40
Matters Terminated.....	25	35	65
Section 5 Submissions Processed.....	3,074	3,463	3,300
Cases Filled.....	11	24	37
Matters Received.....	83	125	50

Several initiatives were undertaken during the year to improve cost effectiveness. On the basis of the program's experience in (1) directing the activities of federal observers in monitoring polling place activities as authorized under Section 8 of the Voting Rights Act (VRA), and (2) using the reports of the federal observers in connection with our administrative and litigation activities in enforcing the Act, the report form used by the federal observers was revised to improve its organization and design, and to update and clarify its content. Information now is recorded and reported more easily and accurately by federal observers. Thus, less time in the field is needed for the observers to prepare and be debriefed on their reports. In addition, steps were initiated to study procedures for processing and reviewing submissions to the Attorney General under Section 5 of the VRA. The analysis of submissions under Section 5 was expedited in the weeks prior to the general election of November 6, 1984, by the addition of six volunteer interns to augment the staff of permanent employees and personnel detailed from other components of the Civil Rights Division.

Data on cases filed and cases closed reflect the facts that: (1) participation as plaintiff and amicus in Section 5 enforcement cases and as defendant in Section 4 bail-out cases litigated under the standards that prevailed until August 5, 1984, usually require less preparation time and those cases usually are shorter lived than is true for dilution and other Section 2 cases and actions brought against the United States for declaratory judgments under Section 5; (2) when the number of submissions of statewide redistricting plans decreased late in 1983, attorneys who had been involved in the analysis of those redistricting plans became available to investigate complaints which led to new plaintiff and amicus litigation including new dilution cases; and, (3) litigation as defendant is likely to increase markedly in mid-1985 when individual counties in fully covered states begin, under new standards that became effective on August 6, 1984, to file bail-out suits. Data estimates for matters received and matters terminated include pre-election investigations to determine the need for federal observers.

The program participated in 24 new cases during the year, six as plaintiff, nine as plaintiff-intervenor, eight as defendant, and one as amicus curiae. This was the largest number of new cases for any year since 1977. Of these cases, five involved the dilution of minorities' voting rights in violation of Section 2 of the VRA as amended in 1982, one involved discrimination by county poll officials in violation of Section 2 of the Act, eight were actions the program entered to defend the constitutionality of Section 2 of the Act, five related to the preclearance requirements of Section 5 of the Act, and one was brought to compel the State of Colorado to comply with the Overseas Voting Rights Act.

Over 3,400 submissions of more than 16,700 voting changes were received under Section 5 of the Voting Rights Act, and objections were made to 75 changes that were contained in 33 different submissions. These figures represent the largest number of changes ever submitted under Section 5 in a single year and the largest number of submissions ever received under Section 5 in a single year. A total of 1,220 federal observers were assigned to cover 20 elections in 37 counties in 6 states. These locations included 10 counties that were among the 13 counties certified for federal examiners by the Attorney



General this year under Section 6 of the VRA, including the first county ever to be certified in the State of North Carolina. This is the largest number of counties to have been certified under Section 6 in any year since 1967.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY	Amount	Perm. Pos.	WY
Employment litigation.....	61	62	\$3,255	61	62	\$3,263	61	62	\$3,263	...	...

Long-Range Goal: To substantially reduce discrimination in employment by State and local governmental units and private federal contractors.

#### Major Objectives:

To eradicate unlawful employment discrimination.  
To develop the legal principles necessary to create a nationwide climate where voluntary compliance with laws and orders against discriminatory employment practices can be achieved.  
To monitor and enforce existing court orders to ensure compliance so that the results sought by litigation are obtained.  
To enforce, through Division-initiated litigation, Title VII in the public sector.  
To issue right-to-sue notices based on referrals from the Equal Employment Opportunity Commission (EEOC).  
To litigate in both the public and private sectors based on referrals from the EEOC and the Office of Federal Contract Compliance Programs (OFCCP).  
To cooperate with attorneys and private litigants by intervening or by participating as amicus curiae in private suits when the Federal Government's position is important to the development of case law.

Base Program Description: This program addresses the problems of discriminatory employment practices of state and local governments. The failure to remedy discriminatory conduct against those persons will be reflected not only in immediate disadvantages, but also in a perpetuation of the effects of past discriminatory practices.

The program enforces federal laws which prohibit discriminatory employment practices which result in the denial of equal employment opportunities because of race, color, religion, sex, national origin or handicap. Approximately 10 million jobs involved in the public sector and upwards of 30 million jobs in the private sector are subject to Executive Order 11246.

This program investigates and, when necessary, initiates litigation with respect to problems peculiar to employment discrimination. Litigation is used only when negotiation does not result in voluntary compliance. All suits, whether in the public or private sector, seek to remedy all forms of systemic discrimination such as those that result from restrictive seniority and transfer systems superimposed upon the patterns of initial discriminatory assignments and exclusion; the use of undated tests and other selection and promotional practices and standards which have disproportionate adverse impact upon racial, ethnic, and religious minorities and upon females; abuses of managerial discretion; and, discriminatory training systems and programs. Major elements of relief sought include: reformation of seniority and transfer systems, restructuring of lines of promotion, numerical recruitment goals for minorities and females, validation of tests and other selection and

promotional practices, elimination or change of other employment practices having unnecessary discriminatory effects and back pay. The Division is currently seeking new and innovative methods to remedy the problem of employment discrimination. Litigation conducted by the program is concluded by consent or litigated decrees. Trials frequently exceed four months; in length, preparation for those trials has in some instances increased dramatically because of resistance to the Division's enforcement efforts by intractable defendants.

The centralization of this effort within this Division provides national coordination of activities among EEOC, OFCCP, the Office of Justice Assistance, Research and Statistics and the Office of Revenue Sharing.

The program is charged with enforcing the following statutes and Executive Orders:

- Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. 2000e, et seq.
- Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq., in matters involving discriminatory employment practices.
- Title I of the State and Local Fiscal Assistance Act of 1972, as amended by the State and Local Assistance Amendments of 1976, 31 U.S.C. 1221, et seq.
- Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended through the Crime Control Act of 1976, 42 U.S.C. 3701, et seq.
- Executive Order No. 11246, as amended, which prohibits employment discrimination by federal contractors or subcontractors or on federally funded projects.
- Sections 503 and 504 of the Rehabilitation Act of 1973, 29 U.S.C. 793, et seq.

The degree of this program's success will be measured both by statistical analysis of changes in employment patterns and by a reduction in the number of complaints of discrimination filed with the EEOC and other agencies. Hopefully, the program's litigation effort will have the desired impact on not only those employers and administrative units sued by this Department, but also on other units in the form of the development and meaningful implementation of appropriate affirmative action plans.

No additional resources are requested for this program in 1986. Funding at this level will allow the program to meet its major objectives at the 1985 level.

Accomplishments and Workload: The accomplishments of this program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Agency Referrals.....	510	281	325	325
Investigative Matters Received.....	15	15	15	15
Cases Commenced.....	15	19	25	25
Right-to-sue Notice Requests Received.....	1,158	1,100	1,100	1,100
Matters Terminated.....	535	327	375	375
Cases Terminated.....	4	12	10	10
Decrees Obtained.....	13	14	17	17

Item	Estimates		
	1983	1984	1985 1986
Decrees Enforced.....	114	119	128 135
Right-to-sue Notices Issued.....	2,004	1,481	1,550 1,550

During 1984, the program filed 19 new suits and obtained agreement to 14 consent decrees in cases brought under Title VII of the Civil Rights Act of 1964, Executive Order 11246 and other provisions of federal law prohibiting discriminatory employment practices based upon race, religion, sex and national origin. Ten of those decrees have been approved by the court and the remaining four have been provisionally approved pending fairness hearings in April 1985. The decrees reflect the Department's policies of seeking vindication of the rights of victims of discriminatory practices, but not seeking (and indeed opposing) preferential treatment in hiring, promotion, assignment or layoff for those who were not victims. The consent decrees provided for the payment of over \$2,900,000 in backpay awards to persons identified as having been harmed by prior practices, plus the elimination of unlawfully discriminatory practices, and enhanced recruitment of the group(s) previously excluded.

Many of the suits filed during 1984 involved the practices of substantial employers, in which a pattern or practice of discriminatory employment practices has been alleged. Consistent with the Division's policy of seeking to vindicate the rights of individual victims, and of supporting the efforts of EEOC to obtain voluntary compliance, several of the suits have been based upon referrals from EEOC and involve allegations of discriminatory practices by relatively small public employers against one or a few victims. While the number of jobs covered by such suits based on EEOC referrals is small, the number of job opportunities affected by such suits is great because of the resulting enhancement of EEOC's ability to obtain relief through negotiations with discriminatory employers.

Several new initiatives in the field of equal employment opportunity were implemented by the program in 1984. These included: (1) four lawsuits under the Pregnancy Discrimination Act which were the first such suits the Division has brought to equalize health benefits coverage for employees' spouses with regard to the spouses' sex, in which the Division alleged that the defendants had discriminated against their male employees on the basis of sex by providing less comprehensive health insurance coverage for the pregnancy-related medical expenses incurred by spouses of male employees than for the coverage of spouses of female employees; (2) a suit under Title VII involving discrimination against women in the form of the defendant corrections department's refusal to hire or promote women into any correctional officer position involving work within the male cell blocks of the local jail, a policy which both had precluded females from occupying entry level correctional officer positions assigned to the male housing units and, because supervisory positions entail work within the male cell blocks, had denied to females all supervisory positions within the jail; and, (3) the first suit the Division has brought against a state bureau of investigation, which seeks to eliminate discrimination against women in the hire, promotion and assignment of female sworn field agents, where the defendant had hired few women and promoted none to lead agent positions. In addition, suits were brought against four separate agencies of a state based on referrals of an EEOC Commissioner's charges alleging discrimination by the defendants based on race and sex.

The program has continued to take steps to eliminate any backlog in the issuance of Notices of Right to Sue requested in Title VII cases and to avoid any recurrence of such a backlog. A major problem has been presented by the fact that the transmittal of information by EEOC district and area offices had been decentralized within these offices. (There are 49 such offices located throughout the continental United States.) Staff members have continued to work with EEOC to the end that appropriate instructions are developed and disseminated. During the year a revised transmittal form was developed jointly

which, based on results to date, has enhanced the efficiency of what is basically an interagency effort. The result of the effort has been a reduction in the proportion of incomplete transmittals from EEOC to the Department from approximately one-third to less than ten percent. The program is continuing to work with EEOC toward an even greater reduction. The program has also continued to rely more heavily on word processors and computers to generate both the Notices and periodic reports concerning the requests for such Notices and subsequent actions taken on them. As a result, Notices are generally issued within less than a week of the receipt of complete information from EEOC and staff members are able to respond in a more expeditious manner to requests for information concerning the issuance of those Notices. The increased efficiencies, both interagency and intraagency, have reduced the number of requests for information as to the status of Notices which have been requested but not yet issued, as well as the time spent responding to those requests, with a corresponding reduction in the support staff resources necessary to carry out the Division's responsibilities in this area.

1985 Appropriation				1986 Base				1986 Estimate				Increase/Decrease	
Anticipated				Perm.				Perm.				Perm.	
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	WY
Coordination and review.....	39	42	\$2,090	39	42	\$2,094	39	42	\$2,094	...	...	...	...

Long-Range Goal: To achieve consistent and effective enforcement of various laws and regulations prohibiting discriminatory practices in federal programs and programs receiving federal financial assistance; maximize use of existing federal, state, and local civil rights enforcement resources; stabilize the costs associated with federal civil rights programs while maintaining the level of responsiveness to citizens who feel that their civil rights have been violated; and, eliminate all regulatory, procedural and statutory barriers which unfairly preclude women from receiving equal treatment from federal activities.

#### Major Objectives:

- To maintain continuing oversight and control of all Executive agencies covered by Executive Order 12250.
- To maintain a continuing liaison with other legal divisions, the U.S. Attorneys Offices, the Civil Division, other programs of the Civil Rights Division, and other federal agencies regarding civil rights litigation.
- To review, evaluate and monitor, on an annual basis, all implementation plans submitted by Executive agencies.
- To review those proposed or final agency regulations or substantive amendments to existing regulations which are promulgated under a statute subject to Executive Order 12250.
- To provide agencies with guidance in the form of prototype regulations for implementation of Section 504 of the Rehabilitation Act of 1973, as amended, as it concerns federally conducted programs.
- To identify all existing and proposed rules, regulations, and orders of general applicability issued under a statute subject to the Executive Order that are inadequate, unclear, or inconsistent, and notify the agencies of necessary revisions.
- To issue consistent standards and procedures for taking enforcement action and for conducting investigations and compliance reviews.
- To establish uniform recordkeeping and reporting requirements and provide model management information systems for Executive agencies.

To issue guidelines for cooperative enforcement programs with state and local agencies, including sharing of information, deferring of enforcement activities, and providing technical assistance.

**Base Program Description:** This program operates a comprehensive coordination effort covering those Executive agencies identified as administering assistance activities subject to Executive Order 12250 and addressing those civil rights issues necessary to ensure consistent and effective enforcement of the statutes subject to this Order (Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973, as amended). The main activities which support this approach include furnishing interagency liaison and reporting mechanisms; conducting interagency surveys to evaluate agency civil rights compliance and enforcement programs; reviewing all existing and proposed regulations subject to Executive Order 12250; technical assistance and training; and, establishing cooperative enforcement systems between federal, state and local agencies.

In addition, the program provides litigation support to the Office of the Solicitor General, the Civil Division and other federal agencies in various lawsuits. This assistance takes many forms including providing advice on the strategy of a case or on particular motions or briefs, writing pleadings and affidavits, preparing court requested status reports, answering interrogatories, and furnishing testimony.

Funding at this level will allow the program to address sufficiently the responsibilities assigned to the Attorney General by Executive Order 12250. Additionally, some discretionary objectives (e.g., provision of technical assistance, training sessions and conducting in-depth reviews of agency programs) will be possible.

**Accomplishments and Workload:** The accomplishments of this program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Litigation Documents Prepared (e.g., Pleadings, Briefs, Interrogatories, etc.).....	44	27	40	40
Legal Guidance/Policy Interpretations Prepared.....	321	229	314	314
Technical Assistance Provided.....	1,278	1,345	1,600	1,750
Regulations Reviewed.....	41	79	85	51
Non-regulatory Documents Reviewed.....	635	364	314	314
A-11 Analyses.....	25	25	25	25
Responses Provided Citizens and Public Officials.....	3,465	1,726	200	200
Agency Reviews Conducted.....	55	55	25	25
Referral Agreements Signed.....	1	1	12	15
Training Sessions Provided.....	37	27	30	30

During 1984, the program responded to the court order in *Williams v. United States*, requiring that the Department of Justice (DOJ) report by October 7, 1983, on the progress of each of the Executive agencies toward publishing Section 504 federally conducted regulation. In response to this Order, the program contacted all 91 agencies and collected affidavits for the court. To reduce publication costs and administrative burdens for small agencies, the program made arrangements with the Office of the Federal Register to coordinate joint publication of Section 504 regulations by those agencies that wished to participate. Eighteen agencies were included in a January 1984 joint publication. Another joint publication for 21 agencies

was developed and implemented by the program. The program also provided guidance and review to Federal agencies on separate civil rights regulations. Included were, among others, regulations from the Departments of Commerce, Labor, Interior, and Health and Human Services, the Environmental Protection Agency, the Federal Trade Commission and the Small Business Administration. The program also provided staff support to the Interagency Coordinating Council and to the Assistant Attorney General for Civil Rights in his capacity as Chairman of the Architectural and Transportation Barriers Compliance Board.

In addition to coordinating the adoption of regulations by other agencies, the program developed a regulation to implement Section 504 for the DOJ. The Notice of Proposed Rule Making (NPRM) was published in the Federal Register for public comment on December 16, 1983 with a closing date of April 16, 1984. A supplemental notice regarding the NPRM was published in March 1984. The final rule was published September 11, 1984 with an effective date of October 11, 1984. Work was begun in the reporting period to complete the regulation transition plan and self-evaluation requirements by the stated deadlines.

The program has maintained an on-going network to communicate policies, provide technical assistance, and monitor the activities of covered federal agencies. This network makes possible the continuing review of agency civil rights program operation in order to identify technical assistance needs and assess compliance with existing DOJ standards and policies.

In addition to technical assistance and training, the program continued to provide policy guidance on the legal requirements of the civil rights statutes. This most often took the form of requests from individual agencies relating to their enforcement of Section 504.

The program completed a number of projects which cut across all covered Executive agencies. These included: (1) development of a new expanded Delegation agreement to more cost effectively allocate civil rights enforcement resources; (2) joint publication with the Equal Employment Opportunity Commission of a regulation establishing uniform procedures for handling complaints of employment discrimination filed with those agencies providing federal financial assistance; and, (3) development of technical assistance guides to aid agencies in meeting their Section 504 responsibilities. The program also reviewed materials in the docket systems of the Civil Rights Division and the Executive Offices of the U.S. Attorneys to determine if recipients of Federal financial assistance from the Bureau of Prisons or from the Office of Justice Programs, were involved in litigation under certain civil rights statutes.

Litigation support was provided to the Office of the Solicitor General and the Civil Division in various lawsuits. Assistance was provided to the Department of Health and Human Services in the development of a revised set of proposed Infant Doe regulations to meet the objections of the court in American Academy of Pediatrics v. Heckler. In Consolidated Rail Corp. v. Darrone, cert granted sub nom., Lestrangle v. Consolidated Rail Corp., the program worked on a brief in the first Section 504 employment case ever heard by the Supreme Court. In Gardner v. Department of the Army, the program provided input concerning whether or not an appeal was warranted in a case where the plaintiff claimed unlawful discrimination against him on the basis of his mental handicap. The program has worked extensively on the briefs filed in Rose v. United States Postal Service, where plaintiffs sought to require the Postal Service to make accessible to the handicapped the leased facilities it operates; and, in Georgia Association of Retired Citizens v. Daniels, where the court requested the DOJ's position as to the legality of Georgia's 180-day limitation on education for mentally retarded children, both under the Education for All Handicapped Children Act and Section 504. In Greater Los Angeles Council on Deafness v. Bell, the district court enjoined the Department

of education from granting Federal financial assistance for the production of television programs until agency regulations ensure accessibility for hearing-impaired persons. The court also ordered the DOJ and the Federal Communications Commission to develop compliance standards. In a supplemental memorandum filed with the Ninth Circuit in April 1983, the DOJ announced that as a result of its decision not to publish a revised comprehensive coordination regulation, the DOJ would also not develop compliance standards for federally assisted television.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease		
	Anticipated			Perm.			Perm.			Perm.		
	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount	Pos.	WY	Amount
Housing and civil enforcement.....	33	34	\$1,756	33	34	\$1,761	33	34	\$1,761	...	...	...

**Long-Range Goal:** To eliminate a significant portion of the illegal discrimination and racial segregation in housing opportunities and eliminate a significant portion of the illegal discrimination in credit transactions; secure general compliance with the Equal Credit Opportunity Act (ECOA) and its implementing regulations; ensure that municipalities meet the nondiscrimination requirements of the Revenue Sharing Act and the 1974 Housing and Community Development Act; and, coordinate the U.S. Attorneys' enforcement of federal laws prohibiting discrimination in places of public accommodation on the basis of race, color, religion or national origin.

#### Major Objectives:

To investigate compliance with and initiate litigation to enforce the Fair Housing Act and the Equal Credit Opportunity Act (ECOA), and bring such litigation to successful completion.

To initiate litigation, upon referral from the Department of Housing and Urban Development (HUD), to remedy local government bodies' noncompliance with their housing-related obligations under the 1974 Housing and Community Development Act.

To monitor final court orders resulting from suits under the Fair Housing Act and the ECOA, and move for contempt of court or other relief where the facts warrant.

To communicate equal housing and equal credit opportunity information to the public by liaison with federal, state, and local enforcement agencies and private civil rights and fair housing groups.

To investigate compliance with and initiate litigation to enforce the provisions of the Revenue Sharing Act, 31 U.S.C. 1242, and the 1974 Housing and Community Development Act, 42 U.S.C. 5309, relating to municipal services.

To direct and generally supervise the U.S. Attorneys in the enforcement of Title II of the Civil Rights Act of 1964 (Public Accommodations).

**Base Program Description:** In November 1983 the General Litigation Program was reorganized and divided into two components to provide a greater focus on the separate areas. The Housing and Civil Enforcement Program is responsible for the Division's enforcement program related to the Fair Housing Act, the ECOA, Title II of the Civil Rights Act of 1964 (formerly handled by the Special Litigation Program) and those statutes prohibiting discrimination in the provision of municipal services under federally funded programs (formerly assigned to the Employment Litigation Program). Fifty percent of the resources of the former program have been allocated to the Housing and Civil Enforcement Program. This represents an increase in the workyears and dollars available for housing and related functions. The Housing and Civil Enforcement Program is ranked as a major priority of the Division. The creation of this program has placed increased emphasis on the Division's Fair Housing Act

enforcement activity and on working with HUD to identify and bring to court persons and corporations operating in violation of that statute.

Program objectives are accomplished with assistance from local U.S. Attorney's offices and the Federal Bureau of Investigation. The housing and credit program activities must be coordinated with HUD, the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Trade Commission, and the National Credit Union Administration. HUD's responsibilities under the Fair Housing Act include the investigation and conciliation of individual complaints alleging prohibited discrimination. HUD also refers certain matters to this program that they believe merit consideration under the Division's pattern and practice jurisdiction. Coordination with HUD is thus required so that a sound and consistent policy may be developed in the interpretation of the Fair Housing Act and in the types of relief that are appropriate for victims of the prohibited discrimination. Coordination with the agencies responsible for overseeing the operations of creditors is necessary to obtain information about patterns and practices of discrimination and to avoid duplication of enforcement effort. Coordination is further required with those several state and local civil rights agencies that have jurisdiction under local law to seek to prevent the types of prohibited discrimination covered by federal law. Current and planned mechanisms include an exchange of information among program staff at HUD, and other agencies that have Fair Housing Act and ECOA responsibilities.

For 1986, no additional resources are requested for this program. At the current level, sufficient resources are available to meet the objectives established for this program.

Accomplishments and Workload: The accomplishments of this program are presented in the following table:

Item	1983	1984	Estimates	
			1985	1986
Cases/Matters Received.....	202	168	195	200
Investigations Conducted.....	145	232	225	235
Matters Closed.....	66	120	100	110
Cases Brought.....	7	18	35	40
Judgments/Decrees Obtained.....	6	8	30	25
Cases Closed.....	18	35	18	20

Since the passage of the 1976 amendments to the Equal Credit Opportunity Act, the Division has worked closely with federal regulatory agencies and significant suits have been filed challenging the lending practices of banks, cash loan companies and retail creditors as well as the activities of real estate appraisers and mortgage lenders. The suits include cases against four nationwide creditors—one defendant had over \$38 billion in credit outstanding in 1982—and it is clear that this litigation program will have a substantial impact on the industry.

During 1984, the program filed 17 housing discrimination cases and successfully negotiated consent decrees in eight housing suits. Six of the cases filed attack alleged racial steering of home buyers by Chicago area real estate brokers. Two other new cases alleging racial discrimination were filed against large companies (one with 24 complexes, the other with 13) that develop and manage apartment buildings in the eastern United States. Another suit charged the owners and managers of a 5,800 unit apartment complex in New York City with unlawfully imposing racial quotas to limit the number of black tenants in the development.



In 1984 the program continued its enforcement efforts under the Equal Credit Opportunity Act by filing a consent decree against a credit union and working out settlement orders in three cases against nationwide creditors. These decrees were filed shortly after the year ended. Also in 1984, the United States Court of Appeals for the Third Circuit affirmed a favorable district court decision that the Section had obtained in a suit against a retail sales company that discriminated on the basis of race, sex, national origin and marital status.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount	Pos.	WY
Educational opportunities.....	33	33	\$1,691	33	33	\$1,696	33	33	\$1,696	...	...

Long-Range Goal: To eliminate segregation in districts formerly operating dual school systems and reduce, in substantial measure, the need for court supervision of public elementary and secondary school desegregation in these districts; make substantial progress in eliminating unlawful segregation and discrimination in public schools in districts where there is no history of a statutorily required dual system; eliminate continuing denials of equal educational opportunities in public school systems; eliminate discrimination in and/or denial of educational opportunities to Native Americans; eliminate the vestiges of unlawful, racially dual systems of higher education; assist the Department of Education (ED) in enforcing assurance of compliance with civil rights laws, such as Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, as amended.

#### Major Objectives:

To initiate, or participate in, litigation designed to bring about the orderly desegregation of schools pursuant to Title IV of the 1964 Civil Rights Act.  
To seek supplemental relief designed to eliminate the vestiges of racially dual school systems and to achieve compliance with constitutional requirements. Such relief in southern school districts will lead to the elimination of the need for judicial supervision of many of these school districts.  
To participate in litigation, involving educational institutions, designed to eliminate denial of equal protection of the law on account of sex.  
To file lawsuits, upon referral from ED, to enforce nondiscrimination assurances made by educational institutions receiving federal funds.  
To defend ED against court challenges to its authority to enforce civil rights assurances by federal recipients through the administrative process.  
To initiate litigation to secure equal educational opportunities for students in public school systems and educational institutions receiving federal financial assistance without regard to race, color, national origin or sex.

Base Program Description: The Educational Opportunities Program was created in November, 1983, after a reorganization of the former General Litigation Program into two components to enable more efficient achievement of its goals. The Educational Opportunities Program is responsible for all of the activities of the Division under statutes relating to equal educational opportunity.

The major objectives of the program are accomplished with assistance from local U.S. Attorney's offices and the Federal Bureau of Investigation. The work of this program regarding school desegregation requires coordination with the Office for Civil Rights (OCR), ED. In defensive cases, coordination includes securing litigation reports from the client agency, joint planning of litigation strategy, mutual review of pleadings and other papers, and supervision of agency personnel on those occasions when they appear in court. Coordination with the Civil Division is necessary from time to time to ensure uniformity in defensive cases handled by both divisions. When education matters might be referred to the program, advance planning with OCR is undertaken to ensure that cases referred are worthy of litigation. One element of coordination that is now missing is a long-range planning process whereby OCR could estimate the number and kinds of referrals they would expect to make two or three years in the future.

Program resources will be expanded primarily to litigate existing cases and to move for supplemental relief in cases previously decided when necessary. This includes existing cases against four states to eliminate vestiges of the previously maintained dual systems in the state higher education system, and several hundred existing cases involving desegregation of elementary and secondary school systems. The program expects to expend substantial resources during 1985 on a suit initiated in 1983 against a state with a dual higher education system, and five to six new cases (or motions in existing cases) designed to eliminate denials of equal educational opportunities in the assignment of students to classrooms and special programs within a school system. In addition, the program expects to increase efforts to have existing cases dismissed by courts, where appropriate, and to administratively close these cases as well.

Accomplishments and Workload: The accomplishments of this program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Cases/Matters Received.....	600	263	275
Investigations Conducted.....	84	249	250
Matters Closed.....	103	239	230
Cases Brought.....	2	4	4
Judgments/Decrees Obtained.....	25	27	25
Cases Closed.....	72	13	50

This program represents the United States in school desegregation suits throughout the nation. The United States has been party to suits involving approximately 525 elementary and secondary school districts, most of which are located in southern states. Approximately 150 of these districts have been declared unitary and the cases have either been dismissed or deactivated by the courts. In the remaining cases (involving approximately 375 school districts), the program spends a considerable amount of its resources monitoring and seeking full compliance with these orders. This activity accounts for a majority of the orders and judgments obtained from courts by the program. For example, major remedial orders involving school desegregation issues were entered in our cases in Lawrence County, Mississippi, Esch County, Texas, Lubbock, Texas, and Huntsville, Alabama. This enforcement activity also includes several other investigations, reviews of court reports and coordination with ED to assure full implementation and enforcement of these Court orders. Finally, enforcement and compliance efforts have led to the termination of several of our cases where full compliance and implementation had been achieved.

During 1984 program activities also focused on pursuing several cases in which initial orders had never been entered. In the Yonkers, New York case, a trial of several months duration was completed and we are awaiting a decision by the court concerning whether or not the schools are illegally segregated. In the case against the Massachusetts Maritime Academy alleging sex

discrimination, the court found illegal discrimination and is now considering appropriate relief. Consent decrees were entered in cases against school districts in Bakersfield, California (a case which was filed at the same time that the order was entered), Marion County, Florida and Lima, Ohio which settled the cases without a trial and required implementation of desegregation plans which relied primarily on the use of magnet schools to encourage voluntary student desegregation.

Cases involving illegally segregated public institutions of higher education continued to consume an increasingly large share of program resources. Considerable resources were committed to discovery activities in the case against the State of Alabama and its public universities and colleges. In addition, the program has been actively monitoring a 1982 consent decree involving the four year colleges and universities in the State of Louisiana and was active in the design of a consent decree entered in a case against the Tennessee institutions of higher education.

In defensive litigation being handled by the program, two new cases were initiated in which the Division is defending the Department of Education. In one of these cases (involving the Perry County, Mississippi school district) and one of the program's pending cases (involving the Michigan High School Athletic Association) settlements were reached and dismissal orders entered. In the other new case filed (involving the Peoria, Illinois school district) and two other pending cases (including the Cincinnati, Ohio school district and the University of Maryland) considerable negotiating and litigating activity has occurred.

The program has placed increased emphasis on the use of word processing machines and computer analyses in the development and litigation of its cases. Roth have become valuable tools to staff members. In addition, computer-generated information has been used to assist management in monitoring case activity, assigning cases and matters and accounting for work flow. One result of this increased attention to case management is more accurate statistical counts of program activities. This accounts for the differences in statistical counts on the workload chart from prior years, particularly counts of cases/matters received, investigations, and the number of orders or settlement agreements in effect.

	1985 Appropriation			1986 Base			1986 Estimate			Increase/Decrease	
	Perm.	WY	Amount	Perm.	WY	Amount	Perm.	WY	Amount	Pos.	WY
Management and administration.....	60	72	\$4,664	60	72	\$4,806	60	72	\$4,337	...	-\$469

Long-Range Goals: To reduce incidence of illegal discrimination in the nation through provision of guidance and definition of the Civil Rights Division's mission and priorities and provide to the public such access to Division records as is permissible under controlling law; provide to the enforcement and regulatory activities of the Division all the necessary executive direction, administrative support, training, and operational support required to enable the programs to substantially reduce discrimination in all subject areas enforced; and, improve and maintain more cost-effective systems support and equipment to allow increased efficiency and work per employee.

#### Major Objectives:

To coordinate the Division's enforcement activities appropriately with related activities of other components of the Department and other enforcement agencies.  
To participate effectively in interdepartmental, Executive Branch and government-wide efforts to clarify or strengthen jurisdiction

- and authority and to establish or improve policies and procedures which govern litigation, administrative enforcement and program operation.
  - To evaluate policies, procedures and systems; anticipate the workload, as well as resource and time expenditures of the programs; and, to develop and implement plans for charges which would render them more efficient, effective and responsive to constituent concerns.
  - To establish and maintain relationships with public interest groups, members of Congress and other constituent representatives which permit constituent concerns to be communicated to the Division and Division activities to be explained to constituents' representatives.
  - To handle important civil rights cases which, either because of their size or complexity or because of their legal uniqueness, cannot be readily handled by the litigating programs.
  - To answer Freedom of Information Act (FOIA) requests within 10 days and Privacy Act (PA) requests within 20 days; minimize the number of appeals from denials of records requests by adhering to a standard of maximum disclosure permissible under controlling law; and, assist the Civil Division and U.S. Attorneys defending the Department in litigation arising from the denials of FOIA requests and out of cases and matters of historic interest on which the Department file is closed.
  - To provide cost-effective and responsive management and automation systems capabilities to address management, administrative and litigative requirements.
  - To review, analyze and respond (on behalf of the Assistant Attorney General) to letters, memoranda and other communications directed to the Division by the White House, Congress, other federal departments, private corporations and citizens; and issue Criminal Non-prosecution Notices to government and private sector organizations and to citizens as appropriate.
  - To provide all of the general administrative support necessary to enable Division personnel to enforce federal civil rights laws, including the following administrative activities: budget formulation and execution; personnel services and training; outside contracts and procurement; mail distribution; space management; supply, equipment and reproduction services; and, other support services not specifically defined in the Division's other programs.
- Base Program Description:** The first five objectives reflect the direct responsibilities of the Assistant Attorney General for Civil Rights. The Division's three Deputy Assistant Attorneys General, the Executive Officer and their immediate staffs. As a rule, supervisory responsibility over matters involving investigative and litigative strategy, relations with the FBI, and preclearance of changes in localities' voting practices and procedures is divided among two of the Deputy Assistant Attorneys General for action or oversight; matters involving long-range program planning and evaluation or relations with U.S. Attorneys, other components of the Department, other agencies, the Congress and some public interest groups are generally assigned to the Third Deputy Assistant Attorney General; and, matters involving finance, personnel, and support services are assigned to the Executive Officer who is the manager of the Administrative Management Unit of the program.
- The Assistant Attorney General also represents the Attorney General on interagency councils concerned with civil rights issues. In that connection, he serves as chair of the Interagency Coordinating Council established by Section 507 of the Rehabilitation Act of 1973, as amended, and as a member of the Architectural and Transportation Barriers Compliance Board established by Section 502 of that Act. The Assistant Attorney General personally approves case filings, interventions and amicus participations, major investigative undertakings, major enforcement motions, novel legal positions, major consent decrees, and closings of investigations of death cases. Personnel matters are considered jointly with the Deputies or are assigned on an ad hoc basis.
- The sixth objective is assigned to the FOIA/PA Unit, which reports to a Deputy Assistant Attorney General on legal matters and to the Executive Officer on operational matters. The Executive Direction and Control Unit of the program is organized to

handle responsibilities which cut across the responsibilities of all of the other programs of the Division. Through this structure, the Division is able to use consistent standards and procedures in responding to FOIA/PA requests, to ensure that the most sensitive, complex or massive cases are handled by the most senior trial attorneys, and to weigh and balance personnel resources and support needs of the Division's programs. Coordination and interaction with other components of the Department, other agencies, the Congress and public interest groups are handled either by Division officials directly or are delegated to personnel in other programs and reported to Division officials to ensure consistency and effective coordination on program and operational issues.

The remaining objectives are handled by the Administrative Management Unit of this program.

The Division's systems support capability is designed to improve program planning and evaluation, caseload management and resource allocation in the litigating and management programs. In addition, the increasing complexity of the cases handled by the Division has required an expanded systems support capability to provide for more efficient litigation fact development. One centralized office within the Division is utilized to put together the skills and capabilities required for effective analysis, design, implementation and operation of systems involving advanced equipment and procedures, particularly where Electronic Data Processing (EDP) is an integral component of the final service.

The administrative and training functions are conducted through a centralized operation rather than by having individual programs furnish their own services. This avoids position duplication, permits flexibility for the use of resources, and provides greater management control.

Accomplishments and Workload: The accomplishments of this program are presented in the following table:

Item	Estimates		
	1983	1984	1985
Legislative Comment and Testimony			
FOIA Requests			
Pending from Previous Year	...	52	52
Requests Received	178	207	182
Requests Processed	173	164	185
PA Requests	144	189	171
Pending from Previous Year	244	223	254
Requests Received	236	315	276
Requests Processed	257	284	255
Correspondence Received, Classified and Delivered	100,000	100,000	100,000
Citizen Complaint Responses Prepared	6,122	9,500	11,000
Administrative Support Correspondence Documents Prepared	21,016	21,000	25,000
White House/Congressional Replies Controlled	654	870	900
Criminal Non-prosecution Notices Processed	6,073	6,336	7,000

Item	Estimates		
	1983	1984	1985
New Files Created	953	917	925
File Storage Requests Filled	125	138	150
File Retrieval Request Filled	516	490	500
Management Information Systems	32	40	45
Management Information Reports	473	625	750
Litigation Support Projects	14	34	50
Litigation Support Reports	203	500	675
			800

There is no meaningful way by which the workload of program and operational planning, direction, control and evaluation activities can be measured. These management activities are by nature non-quantifiable and are best measured by the performance of the other programs which are managed by this one. However, the Division has implemented a management information system which assists Division managers in measuring, in a more efficient statistical fashion, the inputs, outputs and performance of the other programs.

The Special Counsel for Litigation staff includes three attorneys and two support positions. The staff handles a small number of complex, novel or sensitive cases. In *United States v. San Juan County, Utah*, the complaint alleged the defendant provided election information in English but not in the language of the language minority (Navajo) in violation of Section 203 of the 1965 Voting Rights Act (VRA), as amended. The district court entered a negotiated order requiring the defendants to take comprehensive steps to make whatever election and voting information which was available in English available in Navajo. In a separate action involving the same defendant, the complaint alleged that the defendant's use of at-large voting violated Section 2 of the VRA. After discovery and negotiations, the county has agreed to eliminate its at-large election structure. A three-judge court in New Mexico recently held (*Gonzales and United States v. Navajo*) that if House legislative districts violated Section 2 of the VRA. The court, in accepting the position of the United States, drafted its own legislative redistricting plan which eliminates the racial gerrymandering found to exist in New Mexico. In the *Chisago School Board* case, the Division successfully appealed a District Court order requiring the United States to pay the portion of desegregation plan implementation costs that the Board could not afford. The lower court order had set this figure at \$103.8 million per year for each of the next five years.

Quantitative data concerning the workload of the FOIA/PA Unit is based on the actual number of requests pending, received and processed in full in 1983 and 1984. Projections for 1985 and 1986, in the categories of FOIA/PA Requests Received and Processed are based upon the average of the total requests received and processed from 1981 through 1984.

The program has several direct mission responsibilities in the law enforcement area which are in addition to the usual support activities. These include the direct handling of thousands of citizen complaints and requests for information concerning their rights, and also in the handling of Criminal Non-prosecution Notices. Correspondence received has included complaints/requests involving the Yonkers school case, criminal violence against minorities by the Ku Klux Klan, the Las Vegas hotel employees' strike and the Nebraska incident (jailing of a church minister and fathers of students attending church school).

Litigation management and resource control information is now available at terminals in all programs and management

offices in an on-line interactive mode. This system provides complete and current information. In addition, the systems support staff has processed information from thousands of documents and their equivalent on computer tapes for direct use in investigations and trials. Control of case workload and priorities is now possible on a more detailed and current basis. Personnel have been trained in keeping the data bases up-to-date and in the techniques of search and retrieval of information on demand. The increasing demand for litigation support systems exceeded the present system's capacity in early 1984. Some of the excess capacity has been downloaded onto microcomputers but an unforeseen "jump" increase in microcomputer usage has generated an immediate demand for more microcomputers and related equipment and services. The current rapid growth in demand for microcomputers will undoubtedly continue. As resources permit, the Division is planning for substantial or total automation by the late 1980's.

**Program Changes:** The 1986 request for this program provides for a decrease of \$469,000 which will be spread among the services provided by this program. However, the program will be able to operate in an adequate manner.

The Division remains committed to the most effective usage of its EDP systems as a means of developing and implementing systems which will enhance the productivity of the entire staff. Management and other key personnel have completed specially designed computer courses and have become familiarized with the innovative litigation systems capable of being developed within each program. In keeping with the trend to decentralize information systems, programs are now able to meet their own particular needs with the introduction of the personal computer. As a result of the decrease, the Division's plans to expand this decentralization and thereby increase its litigation support systems, will be implemented as resources permit.

Civil Rights Division  
Salaries and expenses, General Local Activities  
Priority Ranking:

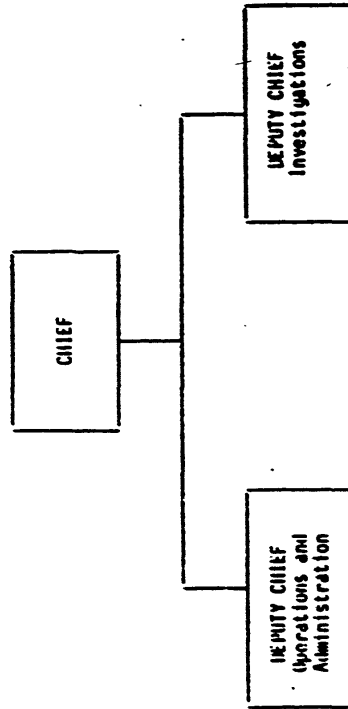
<u>Program</u>	<u>Base Program</u>	<u>Ranking</u>
Civil Rights Prosecution		1
Voting		2
Housing and Civil Enforcement		3
Coordination and Review		4
Management and Administration		5
Federal Appellate Activity		6
Employment Litigation		7
Educational Opportunities		8
Special Litigation		9




Civil Rights Division  
Salaries and expenses, General Legal Activities  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984 Authorized	1985 Authorized	1986 Request
Attorneys (905).....	179	180	180
Paralegal Specialists (950).....	54	57	57
Other Legal and Kindred (900-998).....	11	11	11
Social Sciences, Economics and Kindred (100-199).....	16	16	16
Personnel Management (200-299).....	1	1	1
General Admin., Clerical and Office Services (300-399).....	131	132	132
Accounting and Budget (500-599).....	4	4	4
Information and Arts Group (1000-1099).....	1	1	1
Mathematics and Statistics Group (1500-1599).....	1	1	1
Supply Group (2000-2099).....	1	1	1
Total.....	399	404	404
Washington.....	399	404	404

INTERMIL - U.S. NATIONAL CENTRAL BUREAU



  
Edward C. Schmitts  
Deputy Attorney General

10/14/93  
Date



INTERPOL - U.S. National Central Bureau  
Salaries and expenses, General Legal Activities

Justification of Program and Performance

Activity Resource Summary  
 (Dollars in thousands)

Activity: INTERPOL - U.S. National Central Bureau	1985 Appropriation		1986 Base		1986 Estimate		Increase/Decrease	
	Anticipated		Perm.		Perm.		Perm.	
	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount	Pos.	WY Amount
	44	44 \$2,851	44	44 \$2,900	44	44 \$2,887	...	...
								-13

Long Range Goal: To provide efficient communications and timely information of a criminal justice, humanitarian or other law enforcement-related nature among law enforcement agencies within the United States, the National Central Bureaus of INTERPOL member countries, and the INTERPOL General Secretariat (headquarters) in St. Cloud, France in order to curb the growth of international criminal activity.

Major Objectives:

To represent the United States on behalf of the Attorney General as the United States member of INTERPOL.

To respond to requests for information by law enforcement agencies and, on a limited basis, other legitimate requests by appropriate organizations, institutions and individuals, as determined by the INTERPOL-USNCB and when in agreement with the INTERPOL Constitution and Department of Justice regulations.

To identify and critically analyze patterns and trends of international criminal activities.

To increase the awareness of both the domestic and foreign law enforcement communities regarding the functions and availability of INTERPOL and INTERPOL-USNCB services and the effectiveness of the INTERPOL telecommunications channel in combatting crime on the international level.

To establish specialized Units, such as the recently established Fugitive Unit, in conjunction with other Federal law enforcement agencies, to address particular areas of international crime, e.g., drug trafficking, financial crime and fraud, and to prevent program duplication.

To increase international awareness of United States efforts in the area of financial investigations of criminally obtained assets, and ensure development of INTERPOL-USNCB programs in concert with the missions of interested United States agencies.

To coordinate United States plans to host the 54th INTERPOL General Assembly meeting in October 1985, and to periodically sponsor conferences pertaining to specific types of international crime.

To support more aggressive, innovative INTERPOL regional programs, such as the American Regional Working Party on Off-Shore Banking formed in 1983.

To encourage further United States and Federal agency participation and involvement in the INTERPOL General Secretariat, and in the INTERPOL program, to ensure progressive leadership and management of the Organization.

To further enhance the effectiveness of the International Organization by participating in efforts to incorporate all INTERPOL member countries into the INTERPOL telecommunications network.

To actively support a strong and united INTERPOL position to combat terrorist criminal activity and support the creation of guidelines for day-to-day cooperation between all domestic and international law enforcement agencies on terrorism issues.

To institutionalize the INTERPOL-USNCB, and maintain the credibility of the United States among the domestic and international law enforcement communities, by having a viable INTERPOL-USNCB with sufficient personnel and funding resources to enable quick and effective responses to all requests for law enforcement information.

**Base Program Description:** The INTERPOL-USNCB serves as the United States liaison to the International Criminal Police Organization (INTERPOL) and functions as a central conduit providing efficient communications between this country, other INTERPOL member countries, and the INTERPOL General Secretariat (headquarters) in St. Cloud, France. In addition, through the National Law Enforcement Telecommunications System (NLETS), the INTERPOL-USNCB serves as the communications link among more than 20,000 State and local law enforcement agencies and the INTERPOL member countries.

As specified in its Constitution, INTERPOL was created to promote mutual assistance between all law enforcement authorities in the prevention and suppression of international crime. The National Central Bureau (NCB) of each INTERPOL member country operates within the guidelines of its national laws and the INTERPOL Constitution, which specifically prohibits member countries from intervention in, or investigations of, matters of a military, religious, racial or political character. Among the broad range of offenses and requests for investigative information received by the INTERPOL-USNCB are those pertaining to crimes of murder, robbery, large-scale narcotics violations, large-scale fraud and counterfeiting, and the location and apprehension of international fugitives. The latter cases often involve arrests and extraditions to the countries where the crimes were committed. Requests for information are also made regarding criminal history backgrounds, license checks, and information of a humanitarian nature. In addition, INTERPOL and the INTERPOL-USNCB can assist foreign and domestic police organizations in tracing weapons, and/or locating witnesses to interview for investigative purposes. Established in 1923 and reorganized in 1946, INTERPOL has grown from an organization comprised of a small number of European countries to a world-wide consortium consisting of 136 member countries.

The INTERPOL-USNCB presently functions through the collaborative efforts of 13 participating Federal law enforcement agencies. Currently, Justice representatives from the Federal Bureau of Investigation, U.S. Marshals Service, Drug Enforcement Administration, the Immigration and Naturalization Service and the Criminal Division are assigned at the INTERPOL-USNCB. In addition, Department of the Treasury components, including the U.S. Secret Service, the U.S. Customs Service, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, the Office of the Comptroller of the Currency, and the Federal Law Enforcement Training Center in Glynn, Georgia, have detailed investigative and support personnel to the INTERPOL-USNCB. Other Federal agency participants in the INTERPOL-USNCB program include the Department of Agriculture's Office of the Inspector General and the U.S. Postal Inspection Service. Efforts to increase agency participation in the INTERPOL-USNCB are an on-going activity of this organization in its attempt to develop cooperative law enforcement programs and prevent program duplication.

Information transmission among INTERPOL member countries and domestic law enforcement agencies is through the INTERPOL radio network centralized in INTERPOL headquarters, and the international telex/cable facility stationed at the INTERPOL-USNCB for contacting INTERPOL member countries not connected to the centralized radio network. The direct telecommunications link between the INTERPOL-USNCB and INTERPOL headquarters enables this organization to instantly transmit and receive messages among the INTERPOL-USNCB and INTERPOL and the 69 other countries presently having INTERPOL radio network equipment. This direct telecommunications linkage minimizes delays in relaying information of a law enforcement nature, and plans are currently underway to incorporate all INTERPOL member countries into the INTERPOL radio network.

Another means of communications used by the INTERPOL-USNCB is through photofacsimile equipment. This photofacsimile equipment enables international and domestic transmission of identifying photographs, fingerprint records, and documents, a capability which is critically important to domestic and international law enforcement organizations in responding to emergency criminal situations, court proceedings, border protection operations, and preventing the release or flight of international fugitives.

It should be strongly emphasized, however, that information exchange among the INTERPOL-USNCB and the domestic and international law enforcement communities is carefully monitored to prevent inappropriate release of investigative information. Specifically, the Quality Control Unit at the INTERPOL-USNCB reviews all incoming documents for compliance with INTERPOL-USNCB and INTERPOL guidelines and regulations prior to opening an investigative case. All requests for information must meet the following criteria before responding: (1) the request must come from a legitimate domestic law enforcement agency or an INTERPOL member country; (2) all requests must be to or from an INTERPOL member country, or a Federal, State or local law enforcement agency; (3) it must be an international investigation; (4) the crime must be considered a violation of U.S. Federal or State law, as well as a crime in the country involved; (5) the request does not violate Article 3 of the INTERPOL Constitution which prohibits involvement in matters of a religious, military, political or racial nature; (6) there must be a link between the crime and the subject of the case and the person or property must be suspected of specific criminal involvement; and (7) the reason for the request must be clearly stated, indicating the type of investigation, and the fullest possible identifying details of the subject. If this information is not stated, the requestor is contacted for additional information, including the type of offenses, dates, charges, arrests, convictions, etc. As a further guarantee that investigative information is adequately protected, written verification of all requests for law enforcement information is required before any information is released. Furthermore, the release of all investigative information is coordinated by senior investigative agents following the policies and guidelines specified in the INTERPOL-USNCB Investigations Manual.

Similarly, criteria and guidelines for releasing investigative information have been established on the international level. The INTERPOL General Secretariat has directed the 136 member countries that information provided by another member country should not be released to a non-law enforcement organization without the express permission of the country providing the information. Furthermore, written guidelines concerning the relaying of law enforcement information have been drafted by the General Secretariat and have been approved by the INTERPOL General Assembly. Additional protections and safeguards on the release of investigative information can be cited, all of which enhance the credibility of INTERPOL as a reputable international law enforcement organization.

Accomplishments. In 1984, the INTERPOL-USNCB managed a total caseload of 31,585 cases, including pending cases carried over from the previous year. New cases were opened at the rate of 955 a month which resulted in 11,461 new case openings in 1984.

The 1984 investigative caseload was as follows:

Pending from 1983	19,444
New cases opened	11,461
Canadian license traces processed	295
Requests from Office of International Affairs	187
Requests that only needed relay (QTA)	155
CQ record checks only in 1975	43
Total caseload 1984	31,585

NOTE: In addition, 333 requests for information were declined by Quality Control because they did not meet the INTERPOL-USNCB criteria for responding to requests for information.

With the increase in international crime, the caseload of the INTERPOL-USNCB is constantly expanding. In 1983 the INTERPOL-USNCB caseload totaled 24,706, including 8,903 newly received or re-activated investigative matter and cases, and 14,823 cases pending from 1982.<sup>1/</sup> The total 1983 investigative caseload of the INTERPOL-USNCB reflects approximately a 17.3 percent increase over that experienced in 1982. Notably, the 1984 caseload of 31,585 reflects an increase of 28.0 percent from 1983. Further increases in workload are anticipated in 1985 as the INTERPOL-USNCB, and the INTERPOL program, become more visible to Federal, State and local law enforcement agencies.

In addition to the investigative workload, the Administrative and Special Projects Unit of the INTERPOL-USNCB handled over 550 non-investigative matters, including 170 Freedom of Information and Privacy Act responses. Other activities of this Unit include providing information about INTERPOL and the INTERPOL-USNCB to foreign and domestic law enforcement agencies, the media and the public; responding to requests on various law enforcement topics; and preparing necessary administrative and budgetary reports required by the Department, the Office of Management and Budget, and the Congress.

<sup>1/</sup>These workload numbers are different from those shown in the President's budget due to enhanced reporting capabilities stemming from the implementation of the INTERPOL Case Tracking System.



Significant programmatic and management initiatives have also been implemented at the INTERPOL-USMCB. For example a specialized Financial/Fraud Crime Unit was established in 1984. Presently directed by an Assistant Chief detailed from the U.S. Customs Service, this Unit is comprised of representatives from the Internal Revenue Service, U.S. Secret Service, U.S. Customs Service, U.S. Postal Inspection Service and the Department of Agriculture. The Financial/Fraud Crime Unit also works in close coordination with agency representatives detailed from the FBI and DEA. It should also be noted that with the creation of the Financial/Fraud Crime Unit, closer cooperation with the Treasury Financial Law Enforcement Center (TFLEC) of the U.S. Customs Service has been established.

In addition, the Financial/Fraud Crime Unit coordinates closely with the Financial Assets Group recently established at the INTERPOL General Secretariat to address the problem of financial assets and fraud investigations. Investigations of financial and economic fraud crimes are being coordinated through this Unit to ensure cooperation and avoid duplication of existing agency programs or investigations.

Similarly, in conjunction with the U.S. Marshals Service (USMS), a study was conducted to evaluate the need for establishing a Fugitive Unit at the INTERPOL-USMCB. As a result of the study's recommendation, the Fugitive Unit was established at the INTERPOL-USMCB. This specialized Unit, when fully staffed, will centralize and augment the existing fugitive tracking program and will coordinate information exchange pertaining to the investigation, identification, location, and return of internationally wanted fugitives. The activities of the Fugitive Unit will be of benefit to the USMS, the FBI, and the Criminal Division's Office of International Affairs.

Another significant programmatic development at the INTERPOL-USMCB, as well as internationally, is the expansion of the Anti-Terrorist program. This program evaluates information pertaining to terrorist activities to determine if such information can assist other Federal agencies who participate in the INTERPOL-USMCB program in mitigating international terrorism. As a result of the Anti-Terrorist program, the investigative agents responsible for terrorist-related matters have been better able to coordinate information exchange among domestic and foreign law enforcement agencies regarding international terrorist activity.

More importantly, two resolutions addressing the issue of international terrorism were successfully passed by the INTERPOL General Assembly at the meeting held in Luxembourg this past September. As a result of these resolutions, international terrorist activity can now be considered as a law enforcement matter, rather than simply a political matter. This significant change will enable INTERPOL to play a more active role in mitigating terrorist activity both domestically and internationally.

to the Los Angeles Metropolitan Police and the Executive Committee of the 1984 Summer Olympics by conducting name checks of employees for the Olympics and of potential criminals. Finally, with the assistance of the Office of Justice Programs, a publication is currently being prepared on how to utilize the services of the INTERPOL-USNCB. This publication will be widely distributed to State and local law enforcement agencies. Additional measures will be undertaken, pending an increase in resources so that further increases in workload generated by this exposure can be effectively managed.

In summary, the recent developments at the INTERPOL-USNCB, both internally and internationally, have significantly enhanced its effectiveness as a law enforcement organization. As additional programmatic and management innovations are implemented, and as additional resources are obtained, the effectiveness of the INTERPOL-USNCB will be further improved, thereby ensuring this organization's ability to adequately serve the law enforcement needs of both the domestic and international communities.

#### Program Changes

A program decrease of \$13,000 is requested by the INTERPOL-USNCB, in accordance with Office of Management and Budget directives pursuant to the Deficit Reduction Act.

Similarly an INTERPOL Standing Committee on Information Technology has been established. This Committee is presently chaired for a three-year term by a representative from the United States and also includes a representative from the INTERPOL-USNCB. The primary objective of the Standing Committee is to incorporate all member countries into the INTERPOL telecommunications network to minimize delays in transmitting international messages of a law-enforcement nature. The INTERPOL telecommunications network can be considered complete and efficient only when all member countries are incorporated in it. At present, 21 member countries possess no means of communication other than the normal postal facility. This has frequently resulted in extreme delays in relaying information of a law enforcement nature, an intolerable situation for an international law enforcement organization. It is noteworthy that plans are now initiated to incorporate Caribbean member countries into the INTERPOL telecommunications network. In addition, as a result of the Committee's recommendation, an automatic message switching system is being installed at the General Secretariat which will further facilitate the transmission of the more than 500,000 messages relayed internationally each year.

Another significant international development is the election of John R. Simpson, Director of the U.S. Secret Service, as President of INTERPOL for a four-year term. In 1982, Mr. Simpson was elected as Vice President of INTERPOL by an overwhelming 70 percent majority of INTERPOL member countries. His current position as President, which is a critically important executive position with INTERPOL, further reflects increased United States involvement in INTERPOL. With progressive United States leadership, additional management and programmatic improvements within the General Secretariat will undoubtedly be evidenced.

Also noteworthy is the fact that the INTERPOL-USNCB has substantially increased its involvement with other Federal law enforcement agencies. Increasing the participation of other Federal law enforcement agencies in the INTERPOL-USNCB program is critically important if the effectiveness of the organization is to be ensured. As a result, continuous efforts are made to increase agency participation and to encourage cooperative program development at the INTERPOL-USNCB, both to avoid program duplication and to foster increased cooperation among the components of the Federal law enforcement community.

Similarly, the INTERPOL-USNCB is educating more and more State and local law enforcement agencies in the services provided by this organization. A limited law enforcement awareness program has been implemented for State and local law enforcement agencies, which has been extremely effective in increasing State and local agency knowledge and understanding of the program. As part of this awareness program, an INTERPOL/INTERPOL-USNCB display booth and video tape presentation have been developed and are widely used at various State and local seminars and conferences. In addition, increased participation in State and local law enforcement conferences sponsored by the Department's Law Enforcement Coordinating Committees, as well as by Federal agencies participating in the INTERPOL-USNCB, has contributed greatly to increasing awareness among State and local law enforcement agencies of the law enforcement services rendered. This increased awareness is demonstrated by the assistance provided by the INTERPOL-USNCB

INTERPOL - U.S. National Central Bureau  
Salaries and expenses, General Legal Activities  
Detail of Permanent Positions by Category  
Fiscal Years 1984 - 1986

Category	1984	1985	1986
	Authorized	Authorized Program Supp.	Total
General administration, clerical and office services (300-399).....	5	16	26
Translator (1045).....	1	1	2
Total.....	6	17	27
Washington.....	6	17	27
Total.....	6	17	27

## GENERAL STATEMENT

Mr. TROTT. Good morning, Mr. Chairman, and Members of the Subcommittee. I am pleased to have the opportunity to appear before you in support of a 1985 supplemental and 1986 budget request for the General Legal Activities appropriation. I have formal statements which I would like to submit for the record and give a summary of the requests.

[The prepared statement of Stephen S. Trott follows:]

DEPARTMENT OF JUSTICE  
GENERAL LEGAL ACTIVITIES

STATEMENT OF THE ASSISTANT ATTORNEY GENERAL  
STEPHEN S. TROTT  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON THE  
DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE,  
THE JUDICIARY, AND RELATED AGENCIES

Mr. Chairman and members of the Subcommittee:

I am pleased to have the opportunity to appear before you in support of the 1986 budget request for the General Legal Activities appropriation. The Department is requesting 3,097 positions, 3,126 full-time equivalent (FTE) workyears and \$200,277,000. This request represents an increase of \$1,928,000 over the anticipated 1985 appropriation.

The 1986 budget includes \$1,119,000 for the annualization of supplemental requests for the Criminal Division and the continuation of the program level requested in 1985 for the International Criminal Police Organization-U.S. National Central Bureau (INTERPOL-USNCB). The 1985 supplemental request includes 28 positions, seven FTE workyears and \$400,000 for the Criminal Division to meet additional requirements as a result of the Comprehensive Crime Control Act of 1984 and 27 positions, 27 FTE workyears and \$948,000 to meet INTERPOL's urgent requirements to sustain an effective international law enforcement capability.

As you know, the Department has made substantial progress in the litigation area. While the workload has continued to grow as a result of recent increases in law enforcement personnel, the Department has, nonetheless, been able to meet its litigation responsibilities. Significant productivity improvements over the past several years have enabled the Department to meet the challenges of a growing workload.

The 1986 request for this appropriation includes \$6.8 million in administrative cost reductions and management savings. An amount of \$2,472,000 will be saved as a result of Government-wide analyses and projects that show significant opportunities for cost-cutting in overhead program areas. A savings of \$4,299,000 in 1986 represents the proposed 5 percent pay reduction in salaries for federal civilian employees.

Also included in the request is a proposed rescission of \$470,000 for 1985, that addresses the requirements of the Deficit Reduction Act of 1984.

I will be happy to answer any questions you may have regarding the Department's legal activities.

## COMPREHENSIVE CRIME CONTROL ACT

Mr. TROTT. With your assistance, Mr. Chairman, the Comprehensive Crime Control Act was passed in October, 1984. This legislation made sweeping changes to existing criminal statutes and will greatly enhance the Department's ability to pursue, prosecute and convict criminals. On a Department-wide basis, we are requesting \$22 million in 1985, and \$70 million in 1986 to implement this legislation.

A total of 837 positions will be required. Some of the changes include: One, the expansion of authorities to seize and effect forfeiture of assets if they were gained by profits from criminal activity. Previous authorities provided for seizure only if the assets were being used in criminal activities.

Two, bail reform which significantly increases authorities of judicial officers to hold arrested persons pending trial, sentencing or appeal.

Three, new authorities for the FBI in areas such as terrorism; computer fraud; credit card fraud; and destruction of energy facilities.

Four, expanded involvement of DEA in the Administrative Revocation Program to investigate practitioner registrants whose activities are suspect.

And five, establishment of an Assets Forfeiture Fund and a Crime Victims Fund.

To provide policy guidance and oversight on many of the changes contained in the CCCA, the Criminal Division will require 28 positions and \$400,000 in 1985 and 28 positions and \$1,519,000 on an annual basis in 1986.

We are requesting resources in 1985 to convert 27 positions currently supporting the INTERPOL-USNCB operation, either on a detailed or reimburseable basis, and to cover increasing costs associated with information technology systems, which provide data on criminals, or suspected criminals, to Federal and to state and local law enforcement organizations. For this purpose, \$948,000 is being requested for both 1985 and 1986.

Also, included in the requests are several reductions. In 1985, a rescission of \$470,000 is proposed to address the requirements of the Deficit Reduction Act of 1984. In 1986, a reduction of \$4,299,000 results from the proposed five percent pay reduction for Federal civilian employees and \$2,472,000 will be saved in overhead areas as a result of government-wide analyses and projects that show significant opportunities for cost-cutting.

I hope that the documents and paperwork that have been submitted in support of these requests have been helpful to you and explain where we are and what we intend to do, but I will be pleased to answer any questions that you may have.

## ADDITIONAL RESOURCES TO IMPLEMENT CCCA

Mr. SMITH. Now, with regard to this new Crime Act, all together you are asking for how much in additional funding related to that?

Mr. TROTT. The 1985 supplemental request in connection with the Crime Act itself is approximately \$400,000. What we are asking for is 28 positions and seven workyears distributed by program ac-



tivity in the areas of Federal appellant activity, organized crime prosecution, fraud, general litigation, enforcement operations, asset forfeiture, and international law enforcement.

On a Department-wide basis we are requesting \$22 million in 1985 and \$70 million in 1986 to implement this legislation.

Mr. SMITH. What you are asking for in the supplemental for 1985, should not be added again in 1986. Some of that is continuing.

Mr. TROTT. It would be annualized and continued into 1986, yes.

Mr. SMITH. I guess we ought to just go to 1986 then. What are you asking for in 1986 that is related to this new Act?

Mr. TROTT. That is related to the new Act? That is a total of 837 positions that will be required Department-wide to implement this activity.

Mr. SMITH. How many dollars is that?

Mr. TROTT. That is \$70 million in 1986 to implement this legislation.

#### SEIZED ASSETS

Mr. SMITH. With regard to these seized assets, these represent a cost to the Department, but the assets go into the general fund?

Mr. TROTT. Yes, that is my understanding. There are however, substantial management requirements in connection with the custody of seized assets. We have discovered over the years many cost-efficient ways to proceed, but many of the assets that we seize require considerable management. Not all the assets, of course, are cash. Cash is simple. You can store it and then you count it, you litigate it, and then you can seize it. Most of the assets that are seized in this program are assets such as businesses, boats, airplanes, other kinds of similar items even Tiffany lamps, and in some cases jewelry. All kinds of assets are amassed by criminal defendants.

Mr. SMITH. There is probably no way to estimate what the dollar value of the assets will be in 1986?

Mr. TROTT. It is very, very difficult to tell. The Organized Crime Drug Enforcement Task Force program in the short time that it has been in existence, just a little over two years, can account for approximately \$500 million in assets seized. We have been seizing businesses and all kinds of matters that require considerable management during the litigation process.

When you seize a business, you simply can't let it fall apart for the year, month, or whatever it is that it may remain in litigation. The U.S. Marshals Service has the primary obligation to take care of these assets.

In other words, to do that, they have to have a substantial property management staff with people who know how to take care of these problems, so that the asset itself doesn't depreciate and become worthless by the time that it reverts to the government.

#### LITIGATION OVER OWNERSHIP OF ASSETS

Mr. SMITH. Have you so far gotten into litigation over whether or not the assets belong to the person to whom you claim they belong?

Mr. TROTT. Oh, yes. There is have substantial litigation that we have been involved in over that. Essentially the relationship that

became doctrine was written into the new Comprehensive Crime Control Act and it will be a very valuable doctrine for the government.

But frequently we have hotly contested law suits on our hands with respect to the ownership of seized assets; and whether they are, in fact, linked to the criminal activity that in the first place qualifies them for asset forfeiture.

As you know, not only must you identify who the criminals are, convict them and put them in prison if you want to have an impact on the criminal activity, but when you are talking about organized groups you also have to strip them of the assets that they have gained, or else new people simply move in and take over either the land, the business, the vehicles, and crime continues as usual. So stripping assets is the type of impact that has a strong reaction on the criminal element, and consequently, they fight like cats and dogs usually when you come into court against these things.

Mr. SMITH. What happens if you seize these assets and it turns out that you lose the legal battle on ownership, and in the meantime they have depreciated in value or else they didn't earn as much as they claim they should have.

Mr. TROTT. Hopefully, if we take care of business the way we should that will not happen. That is why it is necessary that we have competent property managers in place to prevent that from occurring. It is not in the government's interest to take a valuable asset and allow it to depreciate.

Mr. SMITH. Of course, an airplane or an automobile would depreciate whether it was taken care of or not, just by age.

Mr. TROTT. Yes; in the tax sense you are correct, but when you take boats and airplanes, we have discovered that maintenance is required to make sure that they don't become useless. For instance, motors have to be started every so often, and oil has to be changed. Airplanes have to be kept in hangers.

Mr. SMITH. I mean age would depreciate its value.

Mr. TROTT. Yes; well, that is something that would happen whether we had it or not, so that is not a major concern.

#### BAIL REFORM

Mr. SMITH. Bail reform it costs money right now, but in the long run wouldn't bail reform reduce the overall cost of our criminal justice system?

Mr. TROTT. Well, I certainly hope so, but I think the cost savings would be pretty much a matter of speculation. We have used the new law approximately 400 to 500 times since the passage of the Act last October, and some 90 percent of our request to use it have been successful. Everytime we use it we have immobilized somebody who in our judgment would otherwise skip, be out committing crime again, or be a danger to the community.

Mr. SMITH. It costs more if he committed another crime; you would have to prosecute him again?

Mr. TROTT. That is what I was coming to. We believe that it is a cost-effective program in the sense that the kinds of people who are being immobilized are those people who are going out and requiring the engagement of the law enforcement authorities to track

them down if they skip bail, or if they engage in other criminal activity; so in that sense, yes. I don't think there is a way that you could ever quantify that and come up with an expression of that factor in terms of dollars, but it is absolutely clear in these cases that—

Mr. SMITH. If you spend more on bail reform then why isn't there some offset?

Mr. TROTT. Because it also requires the immobilization of these people. The U.S. Marshals Service has a lot of new activity that you can directly track. You see, the first group that you were talking about is a very difficult figure to account for in terms of dollars and cents, in the terms of budget, and the impact may be long range and may be incremental in an invisible way.

But we know when we have 400 to 500 people now in jail who were not there before; the extra attention is required of not only prosecutors, and judges but particularly Marshals who are responsible for taking care of these people. I think it is the kind of situation that you frequently get into, where if you tried to figure out how to quantify the dollar savings that you might get through the reduced use of police in tracking these people down, you would find it very, very hard to do. What we do know is that there is a direct cost right now in the additional activity of locking up additional people. We also believe that this is a statute that is just getting off the ground.

As is frequently the case with new statutes, they are used rather sparingly in the beginning, and we have deliberately done that in the Department. We regard this as a new law.

We believe that it is absolutely constitutional, and so far the Circuit Courts that have been hearing these cases have been ruling that it is constitutional; but we believe we have a responsibility, to the public, to the Constitution, and to the Congress to be careful in our use of this. There are a lot of appellate decisions yet to come.

Mr. SMITH. You don't want to test a weak case?

Mr. TROTT. That is exactly right and it has also been my experience that if you abuse any laws you are given they will be revised or taken away by Congress, so we have taken an extremely responsible approach to using all of these laws, and that means we are moving slowly.

I prefer that as we get our teeth into this, as we get a lot more court decisions affirming the constitutionality of these laws, we will be using it more and more in areas where it was intended to be used. Of course, that will have an immediate cost because of the impacts on prosecutors, the U.S. Marshals Service and the Bureau of Prisons.

#### COMPUTER FRAUD

Mr. SMITH. What about computer fraud? Is there some problem with that part of the bill?

Mr. TROTT. Computer fraud is an area that for quite some time has sort of been boiling. There are no problems, no particular problems with the bill, but it is an area that is expanding. It is one that we are becoming more and more involved in, as banking, for instance, changes from a paper system to an electronic funds transfer

system, and as the whole country begins to get into that mode. We believe that the kinds of crime that used to hit in sort of a paper mode will be hitting in an electronic mode.

Mr. SMITH. I understand that perhaps the way the law is written it may cover prohibitions on getting information out of some government computer. Isn't there some problem with that?

Mr. TROTT. If there is I am not tracking your precise question. Maybe we could answer that if we could grapple with that in a more precise way, for the record.

Mr. SMITH. Does it cover some instances of retrieval that we don't want to cover, that you know of?

Mr. TROTT. No. I am not picking up on what you are asking. I am not familiar with that issue.

#### INTERPOL

Mr. SMITH. These 27 positions for INTERPOL, you have been detailing employees from elsewhere for those, have you?

Mr. TROTT. Mr. Chairman, with your permission I have a representative here from INTERPOL who would probably be in a much better position than I am to answer precisely on that, with your permission.

Mr. SMITH. Yes.

Mr. STIENER. Yes, sir, 27 positions are combined. I am Dick Stienner, Chief of INTERPOL's U.S. National Central Bureau. The 27 positions are a combination of detailees from the 13 participating law enforcement agencies, and also reimbursable funding provided by those agencies for those positions at our office.

I think what needs to be stressed about these positions is that they are not program enhancements, but they are positions that are already working at the USNCB. The difficulty we are having right now management-wise, is that with increased budget constraints on all the other agencies, the funding sources for those positions are drying up, and we are not going to be able to continue to receive the funding or the details in the future.

Mr. SMITH. If those other agencies have been providing these employees on detail, why can't we reduce their budgets?

Mr. STIENER. From my standpoint as a program manager, having to live with the other agencies, after you did that I would have problems, I can assure you.

Mr. SMITH. This is just like adding 27 positions?

Mr. STIENER. No, sir. It is not, not for me.

Mr. SMITH. No, not for you?

Mr. STIENER. Right.

Mr. SMITH. But overall it is, isn't it?

Mr. STIENER. Yes, sir, from a budget standpoint.

Mr. WALLACE. With regard to the other agencies that are providing the detailed positions, I think that what he was saying is exactly correct. Those agencies are taking reductions like the 10 percent management reduction, and the Deficit Reduction Act reductions, and so the pressure in those agencies to supply the detailed positions is changing. Those agencies are, in fact, taking some reductions.

Mr. SMITH. Take it out of one pocket and put it into some others. They are really not taking a reduction. You are offsetting what appears to be a reduction.

Mr. WALLACE. They are taking reductions in other areas greater than the amounts and the positions involved here. It is not a position-for-position reduction. In some agencies it would be less than about 27 positions, but the other agencies would be taking bigger reductions than the 27 positions.

#### RESCISSION

Mr. SMITH. With regard to this rescission of \$470,000, what impact will that have on programs?

Mr. TROTT. Well, the reduction, of course, is something that we simply will have to live with, and we have been attempting to absorb that in various ways.

Mr. SMITH. What ways?

Mr. TROTT. The 1985 rescission for the Criminal Division reduces the amount appropriated by Congress for the 1985 operations, and has been proposed by the Administration in the amount of \$114,000. This reduction was proposed in compliance with Section 2901 of the Deficit Reduction Act of 1984. It is understood that this reduction will now be applied to the supplemental request instead of being treated as a rescission.

Larry, maybe you can add something on the other divisions.

Mr. WALLACE. Across all of the organizations there are varied activities that have to be curtailed. As I am sure, you are aware, there were certain specified areas that Congress asked that these reductions be taken; in the areas of travel, printing, public relations, and consultant services. So in each organization each one of those particular activities—

Mr. SMITH. Are those the only areas that this \$470,000 will be taken from?

Mr. WALLACE. Yes, sir, those are the areas that were specified by Congress and the areas that we are specifically reducing with the rescission.

Mr. SMITH. What will that do to travel, for example? Does that mean somebody won't get to travel that should; or does it mean they will cut out some travel they didn't need to start with?

Mr. WALLACE. What it means, I hope, is that we will be able to travel more efficiently than we have in the past. With airline deregulations and other things that have been happening and with some of the contracts that GSA has been able to get with advance hotel and lodging type outfits, some of the travel costs would be reduced in any event. And I assume that we will take the benefit of those types of savings or other types of savings.

Mr. SMITH. What kind of printing will you not do that you were going to do?

Mr. WALLACE. Specifically, I am not sure which documents may not be able to be printed, but we can attempt to get an assessment and supply it for the record.

Mr. SMITH. Is printing very much of this \$470,000?

Mr. SHAFFER. It is \$100,000.

Mr. SMITH. That is a nice round figure. You just grabbed that out of the air?

Mr. NEILL. We were originally asked by the Administration to take a much larger reduction for some of these items. Since about 95 percent of our travel is directly related to program missions, sending attorneys out, moving prisoners, and moving witnesses, we were allowed by the Administration to reduce the amount we had to rescind. So we basically have zeroed in on those items which possibly were a little more operational. \$100,000 is not a great deal of money in this appropriation.

Mr. SMITH. Compared to what?

Mr. NEILL. \$1,825,000. It would be a reduction in the number of press releases possibly, speeches made by the Assistant Attorneys General, things of that nature, fairly minor.

#### REQUEST TO OMB

Mr. SMITH. What was your request to OMB?

Mr. SHAFFER. At the appropriation level, Mr. Smith?

Mr. SMITH. Yes.

Mr. SHAFFER. The request to OMB for 1986 was \$250,372,000.

Mr. SMITH. You said \$250,372,000?

Mr. SHAFFER. Yes, sir.

Mr. SMITH. That is a little over \$36 million reduction. What is represented in that \$36 million? If you had gotten the entire amount what would you be able to do that you won't do under this budget?

Mr. SHAFFER. Mr. Chairman, that represents numerous things, and we will have to supply the details for the record, but it includes such things as the five percent reduction in pay, the 10 percent across the board in management and administration. There is a long list of things.

Mr. SMITH. How much of that is the five percent?

Mr. NEILL. We will have to provide that for the record.

Mr. SMITH. In round figures though, is that a big part of the \$4,299,000? Does that sound right?

Mr. SHAFFER. In this appropriation that would amount to \$4.3 million.

[The following information was submitted:]

The General Legal Activities' Request to  
OMB Compared to the President's Budget  
(in thousands of dollars)

Activity	Request to OMB			President's Budget		
	Adjustments to Base	Program Changes	Total Request	Adjustments to Base	Program Changes*	Total Request
Office of Solicitor						
General.....	\$285	\$257	\$4,116	\$76	-\$14	\$3,664
Tax Division.....	3,896	2,143	39,964	1,413	-527	33,570
Criminal Division....	4,331	4,277	51,857	1,415	-618	43,963
Civil Division.....	3,804	12,013	83,819	1,050	-469	69,397
Lands Division.....	1,625	2,532	26,466	263	-353	22,227
Office of Legal						
Counsel.....	228	210	2,661	-33	-9	2,217
Civil Rights						
Division.....	1,518	351	24,318	197	-469	22,352
Office of Special						
Prosecutor.....	...	...	...	-30	...	...
INTERPOL.....	89	242	3,171	49	-13	2,887
Total.....	15,776	22,025	236,372	4,400	-2,472	200,277

Changes in Adjustments to Base between OMB Request and President's Budget:

Standard Level User Charges.....	-\$10,414
Five Percent Pay Reduction.....	-4,299
Annulization of Pay Increase.....	1,124
Annulization of Additional Positions.....	1,044
Reduction to GS-11 through GS-15.....	615
General Pricing Level.....	529
Other.....	21
	<u>-11,380</u>

\* The President's Budget represents current service levels less the government-wide initiative to reduce Management and Administration costs.

## ASBESTOS LITIGATION

Mr. SMITH. With regard to these asbestos cases, you are seeking an increase of 30 percent between 1984 and 1986. Explain that.

Mr. TROTT. The Civil Division participation in the asbestos cases is very burdensome. As you know, Mr. Chairman, in January 1985 the United States Court of Appeals for the Fifth Circuit noted that asbestos litigations is unique in the annals of tort law. No other category has even approached quantitatively the magnitude of claims promised on asbestos exposure.

Approximately 36,000 injury cases have been filed. Roughly 6,000 new cases are being filed each year and death rates from asbestos will not begin to level off until about 1990. It is estimated the total number of personal injury cases in the asbestos claims area could run to 200,000. Liability is probably as high as \$38 billion.

Several asbestos manufacturers have mounted a massive effort to shift the financial burden to the United States. The impact of a \$38 billion burden being shifted to the United States, I believe, would be rather severe. Manufacturers of asbestos-containing products have filed third-party complaints against the United States in approximately 2,800 cases in 33 different Federal Districts seeking to recover from the public treasury amounts paid to asbestos victims.

Six manufacturers have filed suit against the United States in the United States Court of Claims seeking to recover in consolidated actions for payments made to thousands of asbestos victims. And three manufacturers have filed direct claims in the United States District Court for the District of Columbia seeking to recover from the United States on various tort theories.

The total amount claimed from the United States in these cases exceeds \$2 billion. Even these figures do not suggest the real burden imposed by asbestos litigation. Many of the claims in the District Court for the District of Columbia are combined for record-keeping purposes in a single action, even though each case actually encompasses hundreds or thousands of separate claims seeking payments from the manufacturers to victims.

There are significant factual and legal variations in each one of the claims, including proof of causation. There are significant variations which must be reviewed separately with regard to the reasonableness of the settlements. Consequently, a more active measure of the asbestos litigation would be the number of judgments or settlements which the industry seeks to recover from the United States. Of these, there are currently nearly 6,000 such judgments or settlements. The Mansville bankruptcy and others factors discussed slowed the increase in filing of asbestos cases against the United States during the last year.

A number of these factors have now been resolved and the Civil Division expects the pace of new filings to be increased. Members of the asbestos industries are expected to file new actions against the United States seeking indemnification for losses in personal injury litigation.

The number of asbestos victims also filing directly against the Federal Government is also expected to increase. The Torts Branch estimates that by the end of fiscal year 1986 there will be over 7,000 asbestos suits pending against the United States, an increase



of more than 250 percent over the number pending at the end of fiscal year 1984.

I hope that this encapsulated version of the impact indicates that the United States has a lot to lose and a lot to defend from asbestos litigation.

#### CONTRIBUTORY NEGLIGENCE IN ASBESTOS CASES

Mr. SMITH. Is contributory negligence in these cases an important factor?

Mr. TROTT. Well, it is a possibility. Mr. Chairman, I am not an expert on civil law and I would hate to mislead you with some kind of answer, but to my knowledge it is the kind of claim that will be used in these cases.

Mr. SMITH. At one time we were told there had never been a known case of asbestosis by anyone that didn't smoke.

Mr. TROTT. Yes.

Mr. SMITH. Of course, we have got passive smokers now, too, who have been exposed, though it wasn't their fault. Is that part of what is being litigated?

Mr. TROTT. Again, I can't answer directly. For the record we can supply that information. I believe that would probably not fall under the category of contributory negligence but would be more of a causation problem.

Mr. SMITH. Both related to causation?

Mr. TROTT. Yes.

Mr. SMITH. That could make a substantial impact on this.

Mr. TROTT. It could. However, that remains a matter that would have to be litigated and decided.

Mr. SMITH. In each case.

Mr. TROTT. In each case. It becomes a factual issue in each case. That is why when we talk about breaking these out in terms of the number of individual claims, it is more appropriate to talk in terms of 6,000 rather than the smaller number as counted by the courts.

Mr. SMITH. Are there test cases that will be used? For example, if the experts say, and it is established, that one's lungs will cleanse these fibers unless there is nicotine or other things in the lungs, can you use that as a test case or does each one have to be litigated?

Mr. TROTT. I think from what I am told you may have to do it each time. Certain things that will become settled, but every time you have an individual claimant action, doctrines like collateral estoppel really don't apply. Each person is coming in with a new shot, although I am certain that there are impediments in some of these suits.

There will still remain thousands and thousands of individual claims and settlements and each will have to be worked out on its own factual and legal basis.

Mr. SMITH. Do you see anything other than just simply litigating all these cases? Is there any other way to get it done, more simply than this?

Mr. TROTT. Mr. Chairman, I can assure you that the Justice Department will do everything within its power to limit and minimize the impact of this burden on the Federal Government. I know that

our lawyers will be looking for ways to handle these cases in the most expeditious way that at the same time protects the government against what would be a rather large assault on the treasury.

Mr. SMITH. Do you have any estimate what the monetary claims might total in this area?

Mr. TROTT. The total liability of the asbestos industry and its insurers have been estimated to be as high as \$38 billion. The total amount claimed against the United States in cases that I have talked about exceeds \$2 billion, so there is no doubt that you are talking in the range of billions of dollars rather than millions of dollars.

Mr. SMITH. This will go on for a long time?

Mr. TROTT. According to the Civil Division's estimate, this could go on for quite some time. As we say, from a scientific sense we are still in a bit of a never-never land in terms of what the long range implications of this type of exposure to people. You measure not only questions of causation, but questions of damages.

[Information submitted subsequent to the hearing follows:]

#### ASBESTOS LITIGATION

In January, 1985, the U.S. Court of Appeals for the Fifth Circuit noted that asbestos litigation is unique in the the annals of tort law: "No other category of tort litigation has even approached, either qualitatively or quantitatively, the magnitude of claims premised on asbestos exposure." *Jackson v. Johns-Mansville Sales Corp.* Approximately 36,000 personal injury cases have been filed against asbestos manufacturers and suppliers. Roughly 6,000 new cases are being filed each year and death rates from asbestos will not begin to level off until after 1990. It is estimated that the total number of personal injury cases arising from asbestos exposure could reach 200,000. The total liability of the asbestos industry and its insurers has been estimated to be as high as \$38 billion!

Several asbestos manufacturers have mounted a massive and highly publicized effort to shift this financial burden to the United States. Part of this effort is a three-pronged attack on the United States in the Federal courts. First, manufacturers of asbestos-containing products have filed third-party complaints against the United States in over 3,100 cases in 33 Federal districts, seeking to recover from the public treasury for amounts paid to asbestos victims. Second, six asbestos manufacturers have filed suit against the United States in the U.S. Claims Court, seeking to recover in consolidated contract actions for payments made to thousands of asbestos victims. Finally, three asbestos manufacturers have filed similar direct actions in the U.S. District Court for the District of Columbia, seeking to recover from the United States on various tort theories. The total amount claimed from the United States in these cases exceeds \$6 billion.

Even these figures do not suggest the real burden imposed by the asbestos litigation. The above-mentioned cases in the U.S. Claims Court and the U.S. District Court for the District of Columbia are each counted for record-keeping purposes as a single action. However, each of these cases actually encompasses hundreds or thousands of separate claims, arising from the plaintiff manufacturer's payments to many asbestos victims. There are significant factual and legal variations among these victims and each settlement of judgment must be reviewed separately with regard to reasonableness of the settlement or the adequacy of the defense. Consequently, a more accurate measure of the asbestos litigation would be the number of judgments or settlements for which the industry seeks to recover from the United States. Manufacturers are currently seeking to recover for 78,000 such judgments or settlements.

The Mansville bankruptcy and other factors discussed slowed the increase in the filing of asbestos cases against the United States during the last year. A number of these factors have now been resolved and the Civil Division expects the pace of new filings to increase. Members of the asbestos industry are expected to file new actions against the United States seeking indemnification for losses in personal injury litigation. The number of asbestos victims filing directly against the Federal Government is also expected to increase. Finally, it is likely that the United States will

become entangled in the "second wave" of asbestos litigation, dealing with abatement costs and property damage.

The Torts Branch estimates that by the end of FY 1986 there will be over 7,000 asbestos suits pending against the United States, an increase of more than 250 percent over the number pending at the end of FY 1984.

#### AUTOMATED DATA PROCESSING BUDGET

Mr. SMITH. The budget for ADP equipment for the Civil Division is increased substantially. How is it working?

Mr. WALLACE. Mr. Chairman, we are told that in regard to the Civil Division's automated data processing budget, that it is not equipment but rather automated legal research and other services that are provided to enhance the capability of the Civil Division's lawyers to handle large numbers of cases.

Mr. SMITH. Your expenditures for equipment have increased very considerably though. How much of this is for equipment and how much is for software and other things?

Mr. NEILL. I think we are going to have to give you that detailed breakdown for the record, Mr. Chairman. A very large portion of the Civil Division's increases, as Mr. Wallace has said, over the last several years have been basically for services in software. Also, they have had to increase the equipment in order to access the major automated legal research files and things of that nature.

Mr. SMITH. Is this software designed in-house or do you purchase some of it?

Mr. NEILL. Some of the software is based on the Juris retrieval system and some is contracted for. It depends on which is the most cost-effective approach to take. But we can provide you with a detailed breakdown for the record.

Mr. SMITH. Is it really working out well?

Mr. NEILL. In some of the cases, such as the asbestos cases, which Mr. Trott has mentioned, the Agent Orange cases, and a number of the other cases, the requirements are voluminous. It is my understanding that the legal profession on both sides tends to require more and more documents and the indexing and tracking of these documents is a particularly enormous task which the government would not be able to keep up with unless we could compete with the private litigant.

Mr. TROTT. We have discovered also in other related areas in criminal litigation, in very complex fraud cases, in tax shelter cases the ability to computerize documents is essential to the analysis of evidence, and therefore, the defense or prosecution of the case.

Mr. SMITH. How do you check up to make sure that the information is completely adequate, that there haven't been any changes? You still have to do that?

Mr. TROTT. It depends on the information. If you are taking documents, for example, and putting them in a computer for retrieval, or inputting information from depositions and transcripts, there is no problem with that. If there were some errors that would be subject to correction, of course, that would have to be taken care of but that is on a case-by-case basis.

Mr. SMITH. Thank you.

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